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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

BURUNDI

[19 March 1998]

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Introduction

1. Burundi is a small, land-locked country in Central Africa (27, 834 km^2). It belongs to the Great Lakes region of East Africa, both by virtue of its history and geography and of its economy, the latter being mainly agricultural and pastoral.

2. Inhabited by the Barundi people, the country has experienced strong population pressure since the 1950s. Burundi has a population of just under 6 million, with a very high population density rate, for Africa, of 210 inhabitants per square kilometer, or almost 10 times the average for sub-Saharan Africa. With an annual population growth rate of 2.7 per cent, a birth rate of 43.35 per 1,000, a mortality rate of 21.51 per 1,000, and a fertility rate of 6.63 children per woman (in 1995), the population of Burundi doubles every 15 years, and is expected to reach the 7 million mark by the year 2000. Life expectancy is approximately 50 years for men and 52 for women. Over 90 per cent of the population lives in rural areas and only 6 to 7 per cent in urban centres, this compared with an average of 30 per cent for the African continent.

3. Burundi's population is young. In 1995, children under five years of age, young persons under 15 years of age and young persons under 18 years of age represented 19.3, 48 and 54.8 per cent of the population respectively. Children within the meaning of the Convention on the Rights of the Child, which defines the age of majority at 18 years (article 1), constitute well over half the population of Burundi.

4. The vast majority of Burundi children live in the traditional, extended family structures that characterize predominantly agricultural and pastoral societies.

5. Most children live in extremely precarious conditions in highly impoverished environments. According to the United Nations Development Programme (UNDP), Burundi has a "low level of development", ranking 169th among the countries in UNDP's human development index (HDI). Burundi's per capita gross national product is approximately $160.

6. The established order, in many ways similar to that in neighbouring States and in sub-Saharan Africa as a whole, was violently overturned in 1993.

7. The country was gripped by a social and political crisis, coupled with a veritable civil war. To make matters worse, the neighbouring States imposed sanctions against Burundi in 1996. By June 1997, disaster had struck an estimated 600,000 people, with children accounting for over half, or some 60 to 70 per cent, of the total.

8. One frequently hears the terms refugee, internally displaced, dispersed, or, more recently, regrouped populations, terms under which children are necessarily included. Internally displaced and dispersed populations are populations that have spontaneously fled their homes, while regrouped populations are populations that have been forced to leave their homes and communities as a security enhancement measure dictated by military strategy. The terms refugees (people who have left their country), repatriated persons (people who have returned to their countries) and refoulés (people who have been sent

back to their country) are also common. This is nothing but a huge semantic exercise aimed at providing a response to the imperatives of "statutes" and "mandates". In reality, all of these people are DISASTER VICTIMS.

9. Over 15 per cent of the population of Burundi is displaced, dispersed or living in regroupment camps. A further five per cent is living as refugees outside of the country. Fully one fifth of the population of Burundi can legitimately be defined as disaster victims.

10. Many children are living in extremely difficult conditions, deprived of shelter and access to health and education services. Some have been witnesses to, or the victims of, violence. Many are traumatized, even disabled. These dispersed children, who have fled with their families from insecurity and gone into hiding in the forests and swamps, are therefore living in very difficult conditions.

11. Only five years ago, Burundi was one of the few countries in Africa to be self-sufficient in food. That situation has changed dramatically, with the country now dependent on foreign aid. The economic situation has reached crisis point: the sanctions have undoubtedly exacerbated the difficulties and the human and economic costs have been huge.

12. The immunization coverage rate fell from 81 per cent in 1990 (four children in every five) to an estimated 45 per cent in 1997 (less than one child in two). The civil war and the spread of the Acquired Immunodeficiency Syndrome (AIDS) are threatening to undo the progress that had been achieved in the areas of children's health and survival.

13. Education could suffer in the same way. Primary education in Burundi once compared very favourably with that in other countries of sub-Saharan Africa. Reform of the system and double sessions for teachers and in schools led to a sharp increase in school enrolment ratios among seven to 12-year-olds. With the advent of the crisis, however, the school population was halved, and the number of children in school fell from some 600,000 in 1991-1992 to 302,000 in 1996-1997.

14. In the present circumstances, implementation of the Convention on the Rights of the Child represents a challenge:

- At the political level, far from upholding the rights of the child, the crisis precipitated all kinds of violence that left children scarred or suffering from acute distress;
- At the economic level, the crisis and the embargo have exacerbated an already critical situation: the country has extremely limited resources and a budget that can not provide for the real needs of children;
- At the social level, the spread of poverty and illiteracy mean that the population is uninformed about the Convention on the Rights of the Child;

- At the cultural level, traditional values do not always permit of the implementation of certain modern rights and freedoms.

15. This situation is felt all the more keenly with the decline in official development assistance (ODA) and the decision to restrict the deployment of ODA to "humanitarian" assistance only. Even at this basic level, the mobility and effectiveness of emergency aid have been seriously tested, if not jeopardized, by an excessively broad sanctions regime.

16. Despite these obstacles, the Government of Burundi is determined to look to the future. Over the long term, it intends to work constructively to ensure that the situation of children is improved. It is in this spirit, and in all good faith, that it hereby submits this detailed and objective *Initial Report on the Implementation of the Convention on the Rights of the Child*. It hopes that this will mark the first step towards the revitalization, in collaboration with international organizations, of a truly comprehensive policy for children in Burundi, based on the principles and provisions of the Convention on the Rights of the Child. The Government of Burundi is indeed determined to respect and ensure observance of the rights set forth in this Convention.

I. GENERAL MEASURES OF IMPLEMENTATION (art. 4, 42 and 44, par. 6)

17. In the last 10 years, the entire world (international organizations, States and individuals) has demonstrated a certain level of sensitivity to the problems facing children at the end of the second millennium. In this, Burundi is no exception. In December 1986, Burundi organized the first ever National Colloquium on Children in Burundi, bringing together most government ministries, grass roots movements, non-governmental organizations and international agencies working in the country. This very important meeting was to lay the groundwork for child welfare strategies that were put in place for the 1990s.

18. The following year, in 1987, a summit conference of the Heads of State and Government of the Organization of African Unity (OAU) adopted a resolution concerning the protection, survival and development of African children. The Conference endorsed the principle of universal immunization for African children and decided to declare 1988 the Year of Protection, Survival and Development of African Children.

19. Pursuant to the OAU resolutions, on 12 April 1989 (Decree-Law No. 100/077), Burundi established the National Childhood and Youth Council under the chairmanship of the Prime Minister. In 1990, the World Summit for Children was held at New York. Some 139 Heads of State and Government signed the Declaration and Plan of Action of the Conference, a conference which the Government of Burundi also attended.

20. On 16 August 1990, Burundi acceded to the Convention on the Rights of the Child (the Convention of 20 November 1989 was ratified by Decree-Law No. 1/032 of 16 August 1990). Some months later, on 14 February 1990, Burundi became a signatory to the World Declaration on the Survival, Protection and Development of Children. A consultative council was set up in Burundi in June 1991 to draw up a national plan of action for children. In November 1992, the Government

published its National Programme of Action for the Survival, Protection and Development of Children for the 1990s. The same period saw the creation of a number of national women's and children's associations, including the Burundi Family Welfare Association (ABUBEF). Since 1991, the Day of the African Child has been celebrated in Burundi on June 16th. The National Centre for Human Rights, a government body which now comes under the Ministry of Human Rights, Institutional Reform and Relations with the National Assembly, also organized training seminars/workshops on the Convention on the Rights of the Child in January 1995 and again in March and August 1996.

21. In another, equally important, initiative for children, Burundi signed a basic agreement with the United Nations Children's Fund (UNICEF) on 12 December 1992. Ratified on 18 August 1995, the agreement sets forth the conditions for, and general modalities of, cooperation between UNICEF and Burundi in respect of country programmes. On 12 February 1996, both parties signed a declaration of commitment to the protection of children of Burundi. The Government committed itself to the development and implementation of a joint programme aimed at ensuring every child such protection, basic care and humanitarian assistance as is necessary for his well-being.

22. Finally, on 22 July 1996, Burundi ratified International Labour Organisation (ILO) Minimum Age Convention No. 138 of 1973, which seeks to achieve the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

23. In this way, a number of legal instruments were adopted in the second half of the 1980s and the first half of the 1990s. They now form the basis for activities that were planned in the early 1990s and which should be implemented by the year 2000. Admittedly, however, much remains to be done. Of the major objectives which Burundi set itself for the decade, the following deserve particular mention:

- Measures to ensure country-wide implementation of the Convention on the Rights of the Child;
- Drafting of clear legislation on the protection of the child;
- Conduct of a survey of, and follow-up on, children in particularly difficult situations;
- Creation of appropriate prison facilities for minors, and training of juvenile court judges;
- Regulation of voluntary abortion;
- Social reintegration of children in particularly difficult situations, using vocational training.

24. Within the framework of a major project entitled Bâtissons la paix (Let us build peace), which was launched in March 1994 and targeted at both official primary schools and informal basic education centres, the Government and its partners seek to "guide children and educators towards the discovery and

understanding of trust, solidarity, equality and justice, helping them to learn the skills and behaviours of respect for others in accordance with the Convention on the Rights of the Child." A number of strategies are used for this project, including the development of pedagogical and teaching materials. Other initiatives have included the publication and distribution to trainers throughout the country of almost 6,000 copies of the Convention on the Rights of the Child, of which 3,000 copies are in Kirundi and 2,635 in French. The Government aims to disseminate knowledge as widely as possible about the principles and provisions of the Convention. The Code of Personal and Family Affairs (CPF) has also been translated into Kirundi (the national language) and several copies have been distributed by the Burundi Human Rights League (ITEKA).

25. Article 4 of the Convention on the Rights of the Child calls on States Parties to assure the implementation of the rights recognized in the Convention to the maximum extent of their available resources and, where needed, "within the framework of international co-operation". Numerous organizations assist Burundi in meeting its obligations under the Convention.

26. The Government of Burundi and UNICEF cooperate in the implementation of several programmes focusing directly on children's welfare and development, particularly in the areas of health, nutrition, education, sanitation and drinking water. In the aftermath of the crisis, they further seek to develop peace initiatives, to revitalize families, to effect the integration of unaccompanied children and to devise special programmes to deal with the trauma suffered by, and psychosocial needs of, children suffering from acute distress. The Government's cooperation agreement with UNICEF, which was renewed for a further two-year period on 5 November 1997, incorporates new objectives that focus more fully on protection of the child.

27. Mention should also be made of the important study jointly undertaken by the Government of Burundi, the United Nations Population Fund (UNFPA) and the United Nations Development Fund (UNDP) entitled Étude de la situation de la femme sinistrée au Burundi (Study of the Situation of Female Disaster Victims in Burundi) of April 1995. The various micro-projects and the support which UNDP provides with regard to the human dimension of structural adjustment reforms also make a valuable contribution.

28. In addition to its regular activities, the United Nations Educational, Scientific and Cultural Organization (UNESCO) organizes peace awareness campaigns ("children's festivals"), offering young persons from all backgrounds veritable "peace weeks" structured around their fundamental rights. Some 500 young persons aged between 11 and 16 from every corner of the country gathered for a national festival in September 1996. A regional festival in Muyinga in early 1997 brought together children from the northern provinces of the country. UNESCO's House for Peace also organizes awareness campaigns focusing on the restoration of peace, held mainly at the Bujumbura secondary school.

29. To some degree, the World Food Programme (WFP) assures the right to food of all disaster victims, particularly vulnerable groups such as women and children. Working in conjunction with UNICEF, WFP supports a number of programmes and nutrition centres. WFP also safeguards the food security of orphanages, unaccompanied children and social welfare centres throughout the

country. As the lead agency in agricultural affairs, the Food and Agriculture Organization (FAO) is also necessarily involved in guaranteeing food security, particularly through its plant seed and small tools (hoe distribution) programmes. Children benefit from all of this.

30. The World Health Organization (WHO) assists the Government with the task of guaranteeing universal access to health care and to health centres. WHO supports the Ministry of Health in matters relating to public health structures, training and medicines. It is also contributing to efforts to restore the level of immunization coverage, which fell, because of the crisis, from 81 per cent in 1990 to around 40 per cent in 1997.

31. In addition to its human rights monitoring and technical assistance activities, the Office of the United Nations High Commissioner for Human Rights organizes educational broadcasts, such as Terre d'avenir (Land of the Future), as well as technical training seminars for judicial and prison staff. The principles of the Convention on the Rights of the Child are an integral part of such activities.

32. The Office of the United Nations High Commissioner for Refugees (UNHCR) provides refugees with emergency shelter and assistance. It is most fortunate that this assistance has been extended to include help with the myriad problems of repatriation and resettlement. With the target having been broadened in this way, child disaster victims are able to benefit directly from "high impact projects" such as the rehabilitation of primary schools. The UNHCR has a specific arm (AENA) providing assistance to unaccompanied children, and works together with non-governmental organizations for systematic family reunification through efforts to locate missing parents and children (using radio, photographs and so on).

33. In 1994, official development assistance (ODA) to Burundi increased to $ 310 million, or some 31 per cent of the country's GNP. Since the beginning of the conflict, however, the level of ODA has declined and the deployment of ODA has been restricted to humanitarian aid only. Foreign aid is indispensable. The Programme Budget for the Transitional Government's 1997-1999 Plan of Action, announced by the Ministry of Development Planning and Reconstruction in January 1997, is financed out of two main sources: 28 per cent from national funding, and 72 per cent from external sources. A panel including the relevant partners is therefore required.

34. The Catholic Church, through its Centre for Mutual Development Assistance (CED-Caritas) and the Community of Pentacostal Churches of Burundi (CEP-BU) have long provided indispensable and invaluable support and assistance. As the crisis has deepened, non-governmental organizations have virtually flooded in during the last few years. This is a recent phenomenon. Non-governmental organizations have suddenly sprung up in all national sectors experiencing particular difficulty, and are now working actively on the ground. The Government assures follow-up to their activities and progressively establishes appropriate coordination mechanisms. The role played by non-governmental organizations is decisive.

35. Various activities have been undertaken to disseminate information to the public about the report on the rights of the child. On 26 and 29 September, the

drafting committee undertook a mission to the northern provinces of the country (Kayanza, Ngozi, Kiruno and Muyinga) to evaluate the situation of children in particularly difficult circumstances and to inform the local authorities and population about the procedure being used for the elaboration of the report.

36. On 3 October 1997, the Government, with the support of UNICEF, held consultations with non-governmental organizations and associations working on behalf of children in Burundi. The meeting was attended by some 33 non-governmental organizations and associations based mainly in Bujumbura, but working for children in particularly difficult circumstances throughout the country. The purpose of the meeting was twofold. At first, it aimed at providing non-governmental organizations and children's welfare associations with information about the procedure for the submission of Burundi's initial report on the rights of the child. Secondly, it offered an opportunity to meet with these bodies in order to gather information about the rights and situation of children in Burundi. The meeting further provided an opportunity to share information about work that had been done and difficulties encountered in the area of children's welfare. The Government was able to impress upon non-governmental organizations and associations the importance of including consideration of the Convention on the Rights of the Child in their activities.

37. The proceedings were covered by the print and electronic media, including in particular the Burundi Press Agency service and national radio and television. News broadcasts in Kirundi, French, English and Swahili disseminated information about the procedure used for the drafting of the report.

38. On 27 October 1997, another round of consultations was held with United Nations agencies and bodies working in Burundi, including UNHCR, UNICEF, WFP, WHO, UNDP, UNESCO, the Office of the United Nations High Commissioner for Human Rights, FAO and the Department of Humanitarian Affairs. The purpose was to give the Government an opportunity to brief these bodies on the process being used for preparation of the report. The Government was also able to meet with its partners and gather information about the rights and the situation of children in Burundi.

39. Throughout all of these consultations, the various government services involved in the protection and welfare of children were also present. On 3 December 1997, a meeting was convened with all ministerial departments involved in this area to analyze the draft initial report on the implementation of the rights of the child.

40. As part of ongoing efforts to disseminate information to the public about the report, further field visits to all of the provinces are planned. This will provide the drafting committee with an opportunity both to explain the report's findings to the local authorities and population and to gauge how consistently the provisions of the Convention on the Rights of the Child are being implemented. A summary of the report will also appear in the French-language newspaper Le Renouveau and the Kirundi-language newspaper Ubumwe. National radio will shortly broadcast programmes about the contents of the report on Radio 1 (Kirundi language) and Radio 2 (French language). The same programmes will also be broadcast on national television. Finally, in the course of consultations on the subject of the rights of the child, it was agreed that periodic working sessions should be held from now on between government services and their

partners in non-governmental organizations and United Nations agencies in order to help with the task of evaluating progress in the implementation of the Convention on the Rights of the Child, beginning with the initial implementation report.

II. DEFINITION OF THE CHILD

41. Children have always been considered a gift from God in Burundi, an asset and a guarantee of the household's security. In the past, to have a large family was to have real human capital in economic terms. From a very early age, boys would engage in agricultural and pastoral work, while girls collected wood and water and helped their mothers with the housework. Parents hoped that their children would support them in their old age. The high infant mortality rate led to a tendency to have many children, since one needed to give birth many times in order to ensure that at least some children survived. Not only was the child the family's most valuable asset, he was also considered to be umwana w'umuryango, meaning that he belonged to an ancestral line. If a child had the ill luck to be orphaned, his immediate relatives and neighbours would take him under their wing. Boys were preferred to girls, because they would continue the ancestral line, whereas girls had to marry "outside" and hence could not help to contribute to the family's line of descent. The more people there were in a family or in an ancestral line, the better established it was and the higher its social status.

42. Under Burundi law, a minor is any person who has not yet attained the age of 21. A minor who is not capable of discernment may not perform a civil act (art. 338 of the CPF). On the other hand, a minor who is capable of discernment may perform the following acts:

- Conservatory acts;
- Administrative and routine acts, in so far as they are compatible with the circumstances and fortune of the minor concerned. All other acts are prohibited (art. 339 of the CPF). A minor who derives income from the exercise of a professional activity other than that carried out by his legal guardian is treated as an adult for the purposes of the administration and disposal of such income (CPF, art. 40).

43. A minor who has not yet attained his legal majority remains subject to parental authority. From the point of view of legal administration, the father, or, as the case may be, the mother, represents the child in all civil acts and administers his or her personal property, apart from that which has been acquired from a professional activity other than that exercised by the father or the mother (CPF, art. 291). Legal use confers parents with the right to accrue income from, and dispose of, the personal property of their child. However, legal use does not extend to professional income which the child derives from an activity that is distinct from that of its parents, or to goods acquired by the child from that income (CPF, art. 295).

44. There are some, slight, differences between civil law, which establishes the age of majority at 21 years, and matrimonial law. A man under 21 years of age may not conclude marriage with a woman aged below 18. However, the governor

of the province may agree to waive the age restrictions, where sufficiently serious reasons so warrant. A man and a woman who have not attained their majority may not contract marriage without the consent of their parents. If the mother or father is deceased, or either of them is absent or subject to an order of local banishment, the consent of the other parent shall be deemed sufficient. If the child is the sole surviving member of the family, the Family Council may, upon deliberation, give the necessary consent. In November 1990, Burundi ratified the African Charter on the Rights and Welfare of the Child, which establishes the minimum age for marriage at 18 years for both boys and girls (par. 2, article 21).

45. According to Burundi's Civil Code, individuals are liable not only for any damage which they themselves cause, but also for any damage caused by persons under their care or by objects under their responsibility. Parents are liable for the damage caused by children living in their household (art. 260 of the Civil Code, Book III).

46. The minimum age of criminal liability is 13 years (art. 12 to 19 of the Criminal Code). While legal minority constitutes sufficient grounds for exoneration from criminal liability, the same does not apply to civil reparations. Offences committed by minors under 13 years of age are liable for civil reparations only. Minors aged between 13 and 18 are criminally liable for offences committed, although they benefit from consideration of attenuating circumstances. The penalties for this age group are lower, and may not in any case exceed half the penalty that would have been imposed if the offender had attained 18 years of age. Full criminal liability begins at the age of 18.

47. Voluntary enlistment in the army is subject to a number of conditions of acceptance. Volunteers must be no younger than 16 and no older than 25 on the date of enlistment.

48. With regard to consumption of alcohol or other controlled substances, special police regulations prohibit the consumption of alcoholic beverages on public transport. The cultivation, sale, transportation, possession and consumption of narcotic drugs are prohibited under the Criminal Code (art. 325 of the PC).

49. Citizens are eligible to vote at the age of 18.

50. Compulsory education begins at the age of 7 and lasts for a period of six years Theoretically, therefore, compulsory education applies to children aged between 7 and 12.

51. In keeping with the Convention on the Minimum Age for Admission to Employment, which defines the minimum age for admission to employment or work at 15, the minimum age for admission to employment or work is set at 16 years under article 3 of the Burundi Labour Code. Derogations may be obtained, provided that the child in question is at least 12 years old. Article 126 of the Burundi Labour Code contains an exceptional clause authorizing the employment of children under16 years of age on light and healthy work or in a programme of apprenticeship, providing that such work is not harmful to them. Ministerial ordinance No. 630/1 of 5 January 1981, which regulates child labour, specifies the types of economic activity in which children may be employed, the types of

undertakings which may not employ child labour and the legal age limits to which these prohibitions apply (art. 4, 5 and 6).

52. In summary, from a juridical point of view, the definition of the child under Burundi law is flexible. There are several types of majorities:

- Civil and juridical majority at 21 years of age;
- Partial criminal majority at 13, full criminal majority at 18;
- Matrimonial majority at 18 for girls and 21 years for boys;
- Electoral majority at 18 years;
- Voluntary enlistment or recruitment in the armed forces at 16 years or over;
- Compulsory education from the age of 7 to 12;
- Minimum age of admission to employment: 16 years.

53. In less legalistic terms, there are three distinct age groups, each with its own slightly different problems:

- The principal (but not the only) problems of children under five years of age are health care, vaccination, nutritional and maternal health issues;
- The problems affecting children aged between 6 and 15 relate mainly to illness, dropping out of school, vagrancy, begging, various forms of abuse, and child labour;
- Children over the age of 15 (16 to 18) are affected more by problems associated with employment, unemployment, delinquency, sexuality, drug dependence and military recruitment.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

54. The new transitional Government suspended the Constitution of 13 March 1992 on 25 July 1996, replacing it with Decree-Law No. 1/001/96 of 13 September 1996 which regulates the transitional institutional system. That text currently represents Burundi's basic law, and will continue to do so until such time as a new constitution is promulgated. The transitional decree-law (art. 5 to 34) reproduces in full the human-rights provisions of the 1992 Constitution.

55. The transitional decree-law upholds the principle of the equal dignity, rights and obligations of all, without distinction on the grounds of gender, background, ethnic affiliation, religion or opinion. All persons are equal before the law and have the right, without distinction, to the equal protection of the law (art. 9). The right of all persons to equal access to education and culture is also affirmed (art. 26). All persons with the same skills have the right, without discrimination of any kind, to equal pay for equal work

(art. 28). This same decree-law further affirms the right of every child to receive from his or her family, society and the State such special measures of protection as are made necessary by his or her status as a minor (art. 24).

56. Burundi ratified the International Covenant on Civil and Political Rights on 8 May 1990. The provisions of the Covenant have become an integral part of Burundi law and may be invoked at any time before the Burundi judiciary, particularly articles 2, 14 and 26, which relate to non-discrimination.

57. Burundi is also preparing for accession to the Convention against Discrimination in Education, which was adopted by the UNESCO General Conference at Paris on 14 December 1960. The relevant bill has been placed before the National Assembly. The Convention seeks not only to combat discrimination in education, but also to assure the adoption of measures aimed at promoting equality of opportunity and treatment in education.

58. While Burundi law upholds the principle of non-discrimination, and while discriminatory practices are punishable by law, the fact is that a chasm continues to exist between young girls and young boys. Evidence of this can be found in the legal minimum age established for marriage (18 years for girls, 21 for boys), in the consistently wide gap between school enrolment ratios, and in ordinary family traditions, customs and practices where particular rights and duties are attributed to family members according to their gender and age. The Government of Burundi is well aware of the need to introduce corrective measures and provide incentives for change in this area. For example, although inequality continues to exist in education, it has been eroded to a significant degree over the last few years. In the period 1990-1994, the school enrolment ratio for girls was 84 per cent of that for boys at the primary level and 63 per cent at the secondary level. In the area of health, under-five mortality rates are comparable for girls and boys, suggesting a lack of discrimination against either group. However, at a later stage, traditional practices may come into play, as suggested, for example, by the pecking order when it comes to eating arrangements: boys eat with their father and girls eat after boys.

59. In summary, we can observe two levels of discrimination: "structural" discrimination, which comes out of Burundi's history and culture, and "situational" discrimination, induced by the crisis that has beset the nation since 1993. To make a distinction between refugee children, displaced children, regrouped children and so on is also to practise a form of discrimination. All of these children are disaster victims and ought, contrary to current practice, to receive the same type of assistance. The coordinating role played by the Ministry for the Resettlement and Reintegration of Displaced and Repatriated Persons, which was established in 1994, remedies this situation.

B. Best interests of the child (art. 3)

60. The principle of the best interests of the child is accorded primary consideration in legal protection of the child, administration of such care as is necessary for his or her well-being, and statutory control by the State of institutions, services and facilities responsible for the protection of the child.

61. In divorce proceedings, for example, judges, having regard to the best interests of minor children, will award custody of all or some of the children either to the father, the mother or a third person (art. 175 of the CPF). However, precedent plays a major role in such decisions. Generally speaking, if the child is seven years old, custody will be given to the father, since the best interests of the child are evaluated exclusively from a material point of view (the father's income). The child will be fed, but will no doubt feel deprived of affection.

62. Owing to the current crisis in the country and in the region, there are a large number of unaccompanied children for whom the priority is to find a foster home, a receiving family. Fostering is a responsibility without financial return. It is a tutelary institution that acts only in the best interests of the child (art. 299 of the CPF). In 1997, out of some 20,500 children officially registered as unaccompanied, some 60 per cent were presumed to be orphans. The official figure is no doubt only the tip of the iceberg. Many of these children are placed with foster families, but do the best interests of the child really prevail? Not in all cases. If an orphan is known to have money, he will find a foster home: this is far from true for orphans who are totally destitute.

63. The civil war has often meant that the best interests of the child have had to come second to law and order concerns and the public interest. Owing to a general lack of resources, the Government is currently unable to make children a priority and to place them at the centre of its concerns. Nonetheless, the good will is there. Efforts are being made in the areas of education and health. Moreover, the Ministry of Reintegration and Resettlement of Displaced and Repatriated Persons is the only Ministry to have, in addition to its regular budget, a supplementary fund, the Social and Cultural Fund, paid for out of a special tax levied on consumption of Burundi beverages (beer and lemonade producers) and bringing in an additional 500 million to one billion Burundi Francs (Fbu), depending on the year. While, clearly, the Fund is not specifically intended for children, it should be remembered that children make up 70 per cent of the beneficiaries.

C. Right to life, survival and development (art. 6)

64. "Respect for the life and physical and moral integrity of civilian populations and of women and children in particular shall be permanently guaranteed in accordance with established international law and regulations." This is the solemn commitment recently undertaken by the Government of Burundi, in recognition of the profound and destructive effects of armed conflict on civilian populations, through its signing, on 12 February 1996, of the Declaration of Commitment to the Protection of Burundi Children, jointly prepared with the United Nations Children's Fund (UNICEF).

65. The Declaration assumes particular significance at this time of armed internal conflict, when effective containment of excesses and abuses is often difficult to achieve. There have been many cases of serious human-rights violations, particularly with regard to the rights of the child. The Government vigorously condemns such abuses, which are beyond comprehension.

66. In the past, the life of a child was sacred, even in time of war. This is no longer true. To the contrary, the nature of conflict has changed. Now civilians are on the receiving end of violence and conflicts are played out between neighbours, even relatives. Children are targeted: "If you don't want big rats, you have to kill the little rats."

67. Article 5 of the transitional decree-law affirms the sacredness and inviolability of the human person. The State has an absolute duty to respect and protect individuals. According to the same law, every person has a right to development and complete self-expression, such that he or she can not be deprived of the right to life, security of person and physical integrity (art. 6 and 7).

68. Criminal law also contains special provisions aimed at affording maximum protection to the child. If a woman who has been served with a death sentence is shown to be pregnant, the penalty will not be carried out until after the child is born (art. 30 of the Criminal Code). Women who have been given prison sentences are allowed to give birth and keep their child with them. First, the right to life is safeguarded and then the principle of the best interests of the child should come into play. This is not always easy. Generally speaking, there are few, if any, control mechanisms for the legal protection of children (no special jurisdiction, no juvenile courts and, generally, no separate prison facilities).

69. Article 353 of the Burundi Criminal Code outlaws the practice of abortion. Any person who uses food, drinks, medicine, violence or any other means to procure an abortion for a woman, other than cases provided for under paragraph 1, article 357 of the Code, is liable to prosecution.

D. Respect for the views of the child (art. 12)

70. In accordance with article 20 of the transitional decree-law, everyone has the right to freedom of opinion and expression in accordance with the need to protect public order (ordre public) and with the law.

71. The child is called upon to freely express his or her views in all matters that affect him or her. In adoption proceedings, for example, the court considers the views of the adoptee, in so far as he or she is capable of discernment. The personal consent of the adoptee is required, if he or she is over 16 years of age (par. 3, art. 248 of the CPF).

72. Children have little opportunity to put forward and defend their opinions and views within the family. This reflects a culture and traditional family structures which are based on the values of solidarity, duty and conservatism. Such values do not necessarily lend themselves to Western-type participation, a modernist approach which stresses the importance of change and questioning. It should be noted that over 90 per cent of people in Burundi live in rural areas.

73. Traditionally, children hold the opinions of their father: otherwise, there is confrontation. The child belongs to a system of age groups in which each group uses its own traditional channels for the transmission of messages. As family structures have evolved, these channels are no longer as obvious as in

the past, but dialogue is still conducted through the aunt, the uncle, the grandfather, and so on.

74. Secondary school children are able to have their views heard. All secondary schools are required to observe the need for dialogue and joint decision-making. In addition to teachers' and parents' councils, students also have their own representative committees. The student body is regularly informed about how well the school is doing and any problems that have arisen. Students elect a committee whose task is to raise complaints with, and make suggestions to, school management on their behalf. The student committee comprises a president, a vice-president and two representatives from each class. It expresses its views on all matters relating to teaching, discipline and management of the school.

IV. FREEDOMS AND CIVIL RIGHTS

A. Name and nationality (art. 7)

1. Name

75. According to Burundi custom, a name is part of the definition of a human being. When parents give their children a name, they often take into account the circumstances of the birth, that is to say, the family's social, political, economic and religious background.

76. Article 11 of Decree-law No. 1/024 of 28 April 1993, which amends the Code of Personal and Family Affairs (CPF), states that "a name is the compulsory means by which physical persons are designated." The surname may be accompanied by one or by several forenames. If a forename is also used, it becomes an integral part of the name. The name of a person is the name that appears on the birth certificate, or the name that the child has used consistently and publicly throughout childhood or, in any case, up to the age of 16 (art. 12 of the CPF).

77. The person declaring the birth gives the name to the child. The name can be freely chosen (art. 13 of the CPF). The name given does not have to be the family name, it may be another name. In the interests of the child, the registry office official may make any pertinent observations to the person declaring the birth, where the chosen surname or forename would appear such as to be detrimental to the child (art. 14 of the CPF).

78. Women do not change their name with marriage (art. 16 of the CPF). A woman may add her husband's name after her own, or may use her husband's name accompanied by the phrase, as applicable, "wife of", "widow of" or "née."

79. Births must be registered within 15 days from the date of birth at the registry office which has jurisdiction over the mother's place of domicile. Even the births of children who die before the 15-day time-limit has elapsed must be registered (art. 37 of the CPF). A declaration must be made by the father or, in his absence, the mother, or in the absence of both, by any person who was present at the birth (art. 38 of the CPF). In the case of delays, the governor of the province or his representative may issue orders, where warranted, for the

registration at the registry office of births reported after the expiry of the legal time-limit (art. 45).

80. The birth certificate lists the child's date and place of birth, sex, surname or, where applicable, any forenames that have been given. In the case of a legitimate child, the surnames, forenames and address of the father and mother are also included (art. 39 of the CPF). In the case of an illegitimate child, the birth certificate only mentions the mother, unless the child has been recognized by the father at the same time (art. 40 of the CPF).

81. In times of war, the registration process is often ignored and births and deaths go unreported. In addition, children have often been forced to flee from their schools or region without any prior notice and do not, therefore, have any proof of identity. In such cases, reception centres will institute a series of procedures designed to determine the origins and identity of such children. The search is not always easy.

2. Nationality

82. Every individual has the right to a nationality. Decree-law No. 1/93 of 10 August 1971 concerning the Nationality Code (CN) specifies the means by which nationality may be acquired or lost. Burundi nationality is acquired by birth to Barundi parents, by presumption under the law, by marriage, by choice, by naturalization and by recovery through a simple declaration.

83. The Nationality Code forbids the holding of dual nationality and does not recognize situations of statelessness. There is consensus that the Code needs to be changed, since too many of its provisions are thought to infringe the principles of equality and non-discrimination enshrined both in Burundi's basic law and in the Convention on the Rights of the Child.

84. A person is Murundi by birth, if he or she is:

- The legitimate child, even if born abroad, of a father who is on the day of the birth, or, in the case of the death of the father before the birth of the child, who was on the day of his death, Murundi:
- The illegitimate child of a mother of any filiation that is the object of a voluntary procedure of recognition, legitimation or judicial recognition establishing filiation with a Murundi father;
- An illegitimate child whose paternal filiation is not known and that is the object of a voluntary procedure of judicial recognition establishing his or her filiation with a Murundi mother;
- A child that has been repudiated by his or her foreign father but whose mother is a Burundi national on the date of the repudiation;
- A child that is under 18 years of age on the date on which the father, or, if paternity has not been established, the mother, acquires or recovers Burundi nationality.

85. A person is Murundi by legal presumption if he or she is:

- A child born in Burundi to parents whose legal identity is not known;
- A child found in Burundi, unless it has been established that the child was not born on Burundi soil;
- Any person born in Burundi who has physically resided for a period of at least 15 years therein, unless it has been established that such person is the national of a foreign State or that, as a person of foreign origin, he or she can not be assimilated with Barundi citizens.

86. This last point gives pause for thought, in so far as legal presumption does not automatically extend to a child born on Burundi soil of a foreign father and a Murundi mother, for the reason that filiation with the father is the determining factor. This amounts to discrimination against the mother. The child may later acquire nationality by choice. In the meantime, the child will suffer from discrimination, in so far as he or she can not benefit from the same, free, services provided to his or her Burundi friends.

87. A person may acquire Burundi nationality by choice, if he or she is:

- The child of parents, at least one of whom is, or was, Murundi on the date on which the option is exercised;
- A child adopted before the age of 12 by a Burundi national who is the child's legal guardian;
- A child whose adoptive parent and legal guardian acquires or recovers the quality of a Murundi before the child has attained the age of 12.

88. At the administrative level, the following bodies are authorized to issue nationality certificates:

- District administrators issue certificates to citizens within their jurisdiction who are Burundi nationals by birth or by legal presumption;
- Heads of Burundi diplomatic or consular missions abroad issue certificates to all Murundis residing in their jurisdiction;
- Finally, the Director of the Department of Juridical and Affairs and Litigation at the Ministry of Justice issues certificates to all Murundis.

B. Preservation of identity
(art. 8)

89. According to article 17 of the transitional decree-law, no citizen may be forced into exile. The Government of Burundi does everything in its power to ensure that no one is arbitrarily deprived of his or her nationality or of the right to change nationality. Burundi nationality is lost through renunciation, the voluntary acquisition of a foreign nationality or by legal recission.

90. The civil aspect of identity is clearly only one aspect. Cultural identity is equally important, since it is part of the Burundi national heritage. The Government strives to ensure that a sense of national culture is preserved, strengthened and deepened in the hearts of children. To that end, it has taken a series of measures, including:

- Kirundization of education: that is to say, the passing on of knowledge using the mother tongue, a language which children learn at primary school and which serves as a vehicle for the culture in which children are raised;
- Ruralization of education; that is to say, drawing examples for education and training from the child's own environment, the cultural space in which the child grows up;
- Transformation of traditional primary schools into communal schools, where all the partners in education share responsibility without distinction for the organization and running of the school;
- Adaptation of curricula to reflect national life;
- Preservation of cultural identity;
- Use of civic education to imbue children with a feeling of love for their country.

C. Freedom of expression
(art. 13)

91. The transitional decree-law recognizes the right of all persons to freedom of opinion and expression in accordance with the need to protect public order (ordre public) and in conformity with the law. The State recognizes and guarantees the freedom of the press (art. 20).

92. A Burundi child exercises his or her right to freedom of expression through parental authority. The latter is defined as "the full range of prerogatives that fathers and mothers exert over the person and property of the child in his or her best interests. Such authority prevails until his or her majority or emancipation" (art. 284 of the CPF). The child is not subject to harassment on account of his views. The child enjoys the right to seek, receive and freely impart information and ideas using all legal means.

93. Naturally, the traditional restrictions cited in Chapter III D. above (Respect for the views of the child) also pertain in this context.

D. Access to information (art. 17)

94. A number of bodies in Burundi assure the public in general and children in particular easy access to information. There are three private radio stations (Umwizero, the Chamber of Commerce, Industry and Trades of Burundi/CCIB and Radio Culture) and there is one national public radio and television network. These broadcast special programmes for children and young persons. The print media do exist, but they do not focus on children as such. Likewise, the cinema rarely caters for children, being poorly developed and focusing little on education.

95. The period 1993-1995 saw the flourishing of the "hate media", a type of media that incites adults and children to violence. Firm action was taken to eliminate this scourge, although at the risk of restricting certain rights to freedom of expression. Several newspapers were prosecuted in the courts and a number of convictions were obtained. The National Press Council also suspended seven newspaper titles in 1996.

E. Freedom of thought, conscience and religion (art. 14)

96. The transitional decree-law guarantees all individuals the right to freedom of thought, conscience, religion and worship without prejudice to public order and in accordance with the law. Religious worship and the expression of belief are exercised in observance of the principle of State secularism (art. 19). However, the right to freedom of religion of children that are incapable of discernment is exercised through the parents.

97. There has been a marked proliferation of so-called religious sects of every kind. These groups target gullible people, many of them children. They spread rumours and sometimes also subversive ideas. Indeed, there is a growing number of what might be termed as commercial sects: there is money to be made from other people's gullibility. Here too, there is a need for investigation and determined follow-up.

F. Freedom of association and of peaceful assembly (art. 15)

98. The transitional decree-law guarantees freedom of association and of peaceful assembly, subject to such conditions as are prescribed by law (art. 22). This is reflected by the large number of youth movements and children's associations in Burundi, organized around religion, sports, culture and so on. However, Decree-Law No. 1/11 of 18 April 1992, which establishes the legal framework for the operation of non-profit organizations, makes it illegal for any person under 21 years of age to join a non-profit organization (art. 8). This constitutes an impediment to the right of the child to freedom of association. The absence of specific legislation governing the affairs of minors therefore acts as a brake on the right of children, particularly of street children, to organize.

G. Protection of privacy (art. 16)

99. Protection of the privacy of the child begins with the registration of his or her name at the registry office. If the chosen surname or forename appears such as to be detrimental to the child, the registry office official makes pertinent observations to that effect to the person declaring the birth (art. 14 of the CPF). The transitional decree-law further stipulates (art. 15) that no person may be subjected to arbitrary interference with his or her privacy, family, home or correspondence, nor to attacks on his or her honour or reputation. Searches and home visits may only be conducted pursuant to such procedures, and under such conditions, as are prescribed by law. Privacy of correspondence and communication is guaranteed in such forms, and subject to such conditions, as are prescribed by law.

100. Finally, paragraph 3 of article 24 of the transitional decree-law clearly states that every child has the right to receive from his or her family, society and the State, such special measures of protection as are required by his or her condition as a minor.

H. Torture, punishment or degrading treatment (art. 37 a))

101. Article 14 of the transitional decree-law stipulates that no person may be subjected to torture, cruel, inhuman or degrading treatment. The Criminal Code exonerates children below 13 years of age from criminal liability. Thus, offences committed by minors under 13 years of age are subject only to civil reparations (art. 13 of the Criminal Code). If the offender, or an accomplice, is a minor between 13 and 18 years of age, age constitutes an attenuating circumstance such that the offender can not be served with a sentence of death or life imprisonment: the penalties that are normally imposed in such cases range from five to 10 years imprisonment. If a sentence of a fixed term of imprisonment or a fine is imposed, the penalty may not be greater than half the penalty that would have been imposed had the child been 18 years old.

102. It therefore follows that a child can be sentenced to a term of imprisonment, beginning at the age of 13.

103. Children are more often the victims, rather than the source of, violence. The reality is that children are subjected to cruelty and ill treatment, often at the hands of parents who are in distress, or unfit to be parents, or alcoholics. Children are sometimes viewed as a source of income and are pushed into begging or domestic work, often to the detriment of their education and without their receiving any part of their earnings in return. In the precarious situation that currently prevails, children, particularly unaccompanied children, are especially vulnerable. Greedy family members, such as older brothers or uncles, may appropriate the belongings of the child and either use them themselves or sell them. Unaccompanied children are effectively at a disadvantage in the foster family. There is a greater risk of ill treatment.

104. The Public Security Police (PSP) have often been accused of physical cruelty towards street children: so much so, in fact, that the municipal authorities had to call a meeting on the subject in order to get this elite

police force to adopt a more humane and morally responsible attitude towards street children.

105. Finally, despite the best efforts of the prison authorities, overpopulation of prisons remains a major problem for minors, since they have do not have separate quarters.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

106. The family environment exists on three levels:

- The extended family, comprising families united by their membership of the same clan or of the same line of descent from a common ancestor,
- The larger household or the family group: father, his wife or wives, children, married children and their children,
- The nuclear family or the couple: father, mother and children.

107. The family is the natural basic unit of society. Marriage is the legitimate foundation on which the family is built (art. 24 of the transitional decree-law).

108. The family structure is currently subject to powerful tensions and pressures. The destructive effects of the crisis and the consequent erosion of conventional social norms and values are causing the traditional family structure to break down. Families have been scattered, and many have been suddenly thrown into absolute poverty. Insecurity and repression have forced men to flee, while many others have disappeared.

109. Thus, this brief overview of the Burundi family structure can be completed by adding some other types of families. The single parent family is a family made up of one spouse and children. The number of single parent families has reached staggering levels: many women have become female heads of household. In the camps, most households are headed by women. Equally common is the phenomenon of sole surviving children who set themselves up as child heads of household, and who receive little or no parenting. The virtual family is a family which includes orphans and so on, and which is found in the camps. It brings together the remnants of families that have been torn apart, including surviving abandoned children, unaccompanied children, refugee children and so on. This is a form of social reconstruction. Often, the grandparents, who had expected their children to look after them during their old age, themselves become parents with responsibility for (feeding, clothing and educating) their grandchildren. Finally, the extended family often has to deal with a growing number of dependants.

110. The Family Council is an institution created within the family to safeguard the interests of its members (art. 371 of the CPF). It comprises the child's mother, father, older brothers and sisters, at least two relatives from the paternal or maternal line, chosen on the basis of proximity, and at least two persons known to be fair-minded (art. 373 of the CPF). This institution,

too, is under considerable strain. The difficult socio-economic climate means that people are increasingly preoccupied with their own affairs. Too often, the best interests of the child are not, or are no longer, the primary consideration of this institution. Each person has to ensure his or her survival alone, and without any outside help.

A. Parental guidance
(art. 5)

111. According to article 5 of the Convention on the Rights of the Child, States Parties have a duty to respect the responsibilities, rights and duties of persons legally responsible for the child to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the Convention.

112. According to Burundi tradition, the extended family and the head of household customarily play the biggest role in providing guidance, education and advice to the child, to whom they also pass on the culture. Custom does not formally recognize the rights of the child as such, but rather the duties of the child towards his or her father and mother and towards the extended family. The child is assured the protection of the family, but does not have a formal right to participate in deliberations concerning decisions that affect him or her. Hence, it is from the family of the parents that the child receives moral guidance and learns the skills and knowledge that he or she will need to become a well-adjusted adult.

113. Parents have a natural right and duty to educate and raise their children. They are supported in this task by the State and by public institutions. Every child has the right to receive from his or her family, society and the State such special measures of protection as are necessitated by his or her condition as a minor (art. 24 of the transitional Decree Law).

B. Responsibility of parents
(art. 18, par. 1 and 2)

114. Fathers and mothers have joint responsibility for the maintenance and education of their children in so far as is consistent with their circumstances and means (art. 289 of the CPF). They also represent the child in civil acts and administer his or her personal property, apart from that property which has been acquired by virtue of a professional activity distinct from that of the father or the mother (art. 291 of the CPF).

115. Sale of property and acts whose effect is to encumber the property of the child require the consent of both the father and the mother. Where agreement can not be reached, either party may appeal to the Family Council.

C. Separation from parents
(art. 9)

116. Article 9 of the Convention, which seems to have been designed for countries that have suffered, or suffer, from grave social unrest, applies to a number of situations in Burundi:

- Death of the parents: the crisis and the spread of AIDS have left many children orphans (of war, AIDS and so on). These orphans are vulnerable in various ways, including to exploitation. They suffer from lack of attention, lack of family supervision and lack of physical and social security;

- Unaccompanied children, child prisoners, children whose parents are in prison or who are refugees, displaced or dispersed persons: today, many children, who have been forced by the fighting to return to the country, find themselves back in the camps or on the streets without any idea about what has happened to their parents;

- Loss of parental authority: the court may temporarily or permanently deprive the father or the mother of parental authority over their child in clear cases of notorious loose behaviour, absolute incapacity, abuse of, or cruelty towards, the person of the child. When the decision to rescind parental authority is taken, the court simultaneously designates a person qualified to exercise parental authority and to administer and make legal use of the property of the minor concerned, if the other parent, although not deprived of parental authority, does not appear to be fit to exercise his or her rights. If both parents are deprived of parental authority, the court appoints a legal guardian in accordance with the conditions governing guardianship of minors (art. 289 of the CPF). Guardianship is a protective institution acting solely in the interests of the minor and without any financial return.

D. Family reunification (art. 10)

117. Article 10 of the Convention applies particularly to States affected by exceptional situations such as armed conflict, civil war or grave social unrest. These situations currently apply to Burundi, a country torn by conflict for the last four years and subject to an embargo imposed upon it by its neighbours a year ago. Many children have been forced to leave the country and take refuge abroad, while others are living in camps for displaced, regrouped and repatriated persons. Some 230,000 refugees are living abroad and many are now returning to the country. Around 600,000 people are living in disaster-stricken areas. These flows of population involve around 15 per cent of the population of Burundi, with children believed to account for at least 60 to 70 per cent of the total.

118. The Government has appealed to all refugees to return to the country and rejoin their families of origin. It is also helping all regrouped and displaced persons to return to their land. Timetables have been drawn up for the closure of regroupment camps. Ideally, it should be possible to return peasants to their land before the end of the agricultural season, thereby reducing the length of time that they are dependent on food assistance. The Government has taken firm action to facilitate their return, but delays can easily occur, once again, for security reasons.

119. There are other cases of separation of the child from the family where the need for family reunification arises. For example:

- In the case of de facto separation of a couple, where the spouses live in two different States, the children live either with the father or the mother;

- In cases where custody is awarded to a parent who lives in a different country from that of the other parent: such cases can create difficulties, particularly if the child wishes to maintain regular contact with both parents. The competent judicial and consular authorities can make the necessary arrangements. In the absence of a bilateral convention concerning judicial cooperation between the two countries, the Convention on the Rights of the Child is the only text that can be invoked, providing that the Convention has been ratified by the States concerned.

E. Recovery of maintenance for the child (art. 27, par. 4)

120. In Burundi, parents are responsible for the maintenance of their children (art. 134 of the CPF). This obligation may be met in cash or in kind (art. 133 of the CPF). Maintenance is provided only in so far as is consistent with the needs of the claimant and the resources of the provider (art. 136 of the CPF). Decisions rendered in such matters may be revised if the needs of the claimant or the resources of the provider are altered. The court has competence to deal with recovery of maintenance.

121. The difficulty is often with implementation of a judicial decision concerning payment of maintenance to the child via the custodial parent. Generally speaking, in cases where failure to comply with such a decision is voluntary, the court serves a garnishment order on the salary of the debtor parent, if he or she is employed. If the person is insolvent, nothing can be done to enforce payment and the court will not hold such a person liable for the payment of maintenance. The court is then powerless to act.

122. If the child and the custodial parent live in a State other than that of the indebted parent, effect is given to the court decision in accordance with the norms of private international law or with the provisions of a judiciary cooperation agreement between the two States concerned, if the latter exists. In all cases, the custodial parent has the right to invoke the Convention on the Rights of the Child.

F. Children deprived of a family environment (art. 20)

123. Children in Burundi are deprived of a family environment in various circumstances, including through war, divorce, the death of the parents, desertion, indigence and loss of parental authority.

124. As has been stressed several times, the crisis has forced many children to flee from their land or family environment, ending up either in camps for displaced or regrouped persons inside the country or as refugees abroad.

125. Divorce raises the problem of custody. Children are separated from one of their parents, but nonetheless retain visiting rights. Regardless of which

person is awarded custody of the children, fathers and mothers retain the right to ensure that their children receive maintenance and education, and must contribute thereto, pro rata, out of their resources. Mothers are generally awarded custody of children below six years of age, whereas older children are normally entrusted to the care of the father. In awarding custody, the court always takes account of the best interests of the child (art. 184 of the CPF). From the age of 7, it is recognized that custody will be awarded, virtually automatically, to the father, on the assumption that the father's resources are greater.

126. When custody of the child is awarded to one of the spouses, the other spouse normally must pay child maintenance. Unmarried mothers also have a right to receive maintenance for their illegitimate children, where paternity has been established.

G. Adoption (art. 21)

127. Adoption is regulated by articles 245 to 261 of the Code of Personal and Family Affairs (CPF). In the spirit of the Code, adoption can only take place when it is in the best interests of the child. The court solicits the opinion of the child, providing that he or she is capable of discernment. The child's personal consent is required if he or she is over 16 years of age at the time of the submission of the request for adoption (par. 3, art. 248 of the CPF).

128. Any person aged 30 years or less, of either sex, be they married, single, widowed or divorced, has the right to adopt a child. However, no person may be adopted by more than one other person, unless by a married couple. Permission may be given for a second adoption, however, following the death of either an adoptive parent, two adoptive parents or one of two adoptive parents, providing that the new spouse of the surviving partner submits the relevant request (art. 245 of the CPF).

129. Burundi law contains a number of regulations concerning the age of adoptive parents and of the adoptee. The former must be 30 years old or less, although this condition does not apply in cases of the adoption of a spouse's child (par. 1 and 2 of art. 245 of the CPF). There should be a minimum age difference of 15 years between the adoptive parent and the adoptee, although a court may dispense with this requirement in certain circumstances.

130. Adoption requires the consent of the adoptee's mother and father and of the older children of the adoptive parent, in so far as none of the parties has been deprived of parental authority, is absent or has disappeared. The views of the Family Councils of both the adoptee and the adoptive parents are always sought. If the adoptive parent is married, the spouse's consent is required, unless the spouse is absent or subject to an order of local banishment. If the adoptee is living in a charitable institution, the consent of the institution or of the custodial authority must be provided (art. 248 of the CPF).

131. Each request for adoption is examined by the district court in the area where the adoptee has his or her place of domicile. The court may make enquiries about any matters that it deems to be of relevance. However, it is deplorable that there are no juvenile courts that have special expertise in, and experienced of, children's problems, particularly with regard to adoption.

132. Through adoption, the adoptee enters the family of the adoptive parent as his or her legitimate child. Adoption confers all the rights and duties associated with such a condition. However, the adoptee continues to be a member of the family of origin, retaining all the rights and duties associated therewith, consistent with his or her new status (art. 253 of the CPF).

133. Adoption may be revoked if the adoptee, upon reaching the age of majority, is shown to be ungrateful, or if the adoptive parent fails to meet his or her obligations towards the adoptee (art. 254 of the CPF).

134. Burundi law does not stipulate specific regulations in the area of inter-country adoption. There is growing demand from developed countries for children for adoption. Around 50 Burundi children are adopted internationally each year, usually through charitable organizations. There is no follow-up process as regards the final destination of these children and this leaves the way open for abuse. It is for this reason that the Government is currently reviewing means for the effective regulation of inter-country adoption. The procedure has been suspended and is being reviewed.

135. In the present situation of large movements of people in the East African Great Lakes region and within Burundi itself, there are many children who, having wandered away or been cut off from their family environment, end up being taken in by de facto foster families. While this practice reflects a laudable sense of solidarity among Burundi families, there law makes no provision for such arrangements. The phenomenon is a recent one. If the Code of Personal and Family Affairs contains provisions relating to guardianship of minors and to adoption, it does not yet cover assumption of care by a foster family. With so many unaccompanied children and orphans, the foster family is in fact becoming a real institution. So, what are the rights and duties of both parties? What protection should be afforded to a child taken in by such a family, given that the child could, in certain circumstances, be placed at a severe disadvantage relative to any legitimate children, being forced, for example, to perform domestic or agricultural work rather than going to school? This is an area that deserves some attention, since the potential for discrimination is there.

136. In addition, the right to inheritance, particularly with regard to land, is in principle based on descent through the male line: often, it is only sons that will inherit. When a foster family takes in a child, or a number of children, this immediately raises a problem. With adoption, the adoptee becomes a legitimate member of the family with the status of an heir. A young boy taken in by a foster family, however, clearly does not enjoy the same status. The foster family is often reluctant to accord this status to him. This can make fostering a very temporary arrangement. Boys are often "let go" before the family feels bound by any of the regulations governing adoption or guardianship of children. This reticence often leads to discrimination against boys. In fact, such problems do not occur with girls, since girls are unable, in principle, to inherit land. On the other hand, girls can provide invaluable assistance with housework and with the raising of younger children.

H. Illicit transfer and non-return of children (art. 11)

137. The State of Burundi prohibits the transfer of children abroad without the express agreement of the parents. The latter must also specify the child's final destination, together with the means for his or her stay and return.

138. Nonetheless, the grave unrest that has plagued the country since 1993 has forced many children to cross the borders illegally. The problem exists, therefore. The Burundi diplomatic authorities have been instructed to make enquiries about all Burundi children being held abroad against their will.

I. Abuse and neglect (art. 19) and social reintegration (art. 39)

139. The Code of Personal and Family Affairs (CPF) and the Criminal Code (CP) contain a number of provisions aimed at protecting the child against abuse in the family environment and at safeguarding the welfare of the child.

140. In civil matters, the CPF sets forth a number of rules designed to protect the child against abuse and the failure of parental authority or guardianship. Measures include loss of parental authority, loss of the right to legal guardianship and revocation of adoption. These provisions were discussed in detail in the previous chapters.

141. Criminal law protects the life and physical integrity of the child. Infanticide is punishable by a sentence of life imprisonment (paragraph 3, art. 134 of the CPF). Hitting or wounding of a child of under 13 years of age is strictly forbidden and is punishable by double the normal penalty (art. 140 of the CP). Neglect and failure to meet one's obligations with respect to guardianship, maintenance and education of the child are also sanctioned (art. 359 and 369 of the CP).

142. Reference is made to Chapter VIII below for details concerning physical and psychological re-education and social reintegration of victims of neglect, exploitation or cruelty.

J. Periodic review of placement (art. 25)

143. The Family Council in Burundi has general responsibility for monitoring and controlling both the provision and administration of care. To that end, it must require the legal guardian of the child to furnish it, at least once a year, with a full account of the management of the arrangement, and may undertake any such checks as it deems necessary. The guardian must provide the Family Council with any and all assistance needed to facilitate this task (art. 317 of the CPF).

144. There are many children in the care of private institutions or charitable, non-governmental associations. Except in particular cases, there is no effective administrative structure to carry out periodic follow-up on, and review of, such arrangements. In the current economic climate, the Government leaves such matters, in all good faith, to the discretion of the private sector and to all

local and international organizations working on behalf of children in particularly difficult situations in Burundi.

VI. HEALTH AND WELFARE

145. The situation with regard to the health and welfare of children is bad and getting increasingly worse. Since 1993, over 15 per cent of health personnel have either been killed or have fled the country; numerous vehicles and medical supplies have been stolen; the national system of health information and channels for distribution of pharmaceuticals have been interrupted, weakened and paralyzed. Health indicators, normally on a par with averages in sub-Saharan Africa, have declined dramatically.

146. Before the crisis, infant mortality rates (relating to children below the age of 1 year) were in the range of 106 per 1,000 live births, while the under-five mortality rate stood at 176 per 1,000. Those rates are higher today, although reliable figures are not available. Malaria, acute pulmonary disease and diarrhoea are the main causes of infant mortality and morbidity. Around 35 per cent of children born to HIV-positive mothers develop AIDS and die within three years of being born. Before long, AIDS will be another major cause of infant and under-five mortality. The incidence of AIDS/HIV ranges from between 18 and 20 per cent in urban centres to between 1 and 2 per cent in rural areas. Urgent measures need to be taken to slow down the spread of HIV. Only 10 per cent of births take place in a protected environment. Almost 20 per cent of babies are born with a birth weight of less than 2.5 kilos. Half of all babies under 3 years of age suffer from chronic malnutrition, although there are no recent official statistics in this regard. Over the last four years (1993-1997), the incidence of acute infant malnutrition has risen from 6 to 12 per cent: it could rise even further.

147. The impact on food security of the embargo imposed on Burundi by neighbouring States gives considerable cause for concern. The economic blockade has done considerable harm to the health sector, particularly in the area of vaccination. The shortage of petrol seriously hampers delivery of vaccines to health centres. Several batches of vaccine have deteriorated and some health centres have stopped administering vaccines all together. Lack of medical supervision has prevented the transmission of medical and epidemiological information, making it impossible to gauge the exact status of the Expanded Programme on Immunization in the field. Health data point to a significant fall in immunization coverage rates: from 81 per cent in 1990 (four children in five) to less than 50 per cent in 1996 (one child in two).

148. According to Ministry of Public Health statistics, by the end of 1996, only 70 per cent of health services were operating more or less normally, with significant disparities between regions. Some hospitals were forced to close their doors because of the security situation, while others closed down because of the shortage of personnel. Patients are often unable to pay for the costs of treatment. Health insurance cards no longer guarantee completely free treatment. Health care and medicine are becoming less accessible from a physical and financial point of view. Poor maintenance of hydraulic infrastructures and of sewage treatment facilities is believed to affect over half the national network.

149. Displaced or regrouped populations are plagued primarily by problems of crowding, promiscuity, poor hygiene and malnutrition. Women and children are at serious risk. Cholera, bacillary dysentery and typhus epidemics, together with higher rates of malaria-associated morbidity, have all been observed. A major government study, conducted together with the United Nations Population Fund (UNFPA) in April 1995, clearly demonstrated the central role played by food issues in the problems of children in the camps. When they are ill, children receive treatment at their nearest dispensary or hospital. However, medicines are a problem. The prescriptions written by medical staff will never be filled, because patients do not have the money to pay for medicines. Diarrhoea, respiratory infections, intestinal parasites, bacillary dysentery, malaria and measles are the most common children's diseases. Scabies is another problem in the camps.

150. The civil war and the spread of AIDS are threatening to wipe out the progress that had been achieved in the areas of prenatal care, infant vaccination, survival of the child and treatment of illnesses such as diarrhoea, malaria and respiratory infections.

A. Survival and development of the child
(art. 6, par. 2)

151. Although the Government of Burundi is committed to ensuring the survival and development of the child, particularly so in the prevailing situation of crisis and economic sanctions, its resources are extremely limited.

152. In November 1992, Burundi published a National Programme of Action for the Survival, Protection and Development of Children for the 1990s. Subsequent events prevented the implementation of this wide-ranging programme, which never became operational. The Programme included general and specific objectives aimed at improving children's health, objectives that should now be reviewed and revised to take account of prevailing conditions in the country.

Objectives for the year 2000

Indicator	Global objective	1990	1997	2000
Infant mortality	50 ‰	116 ‰	87 ‰	77 ‰
Under five mortality	70 ‰	196 ‰	147 ‰	100 ‰
Maternal mortality	30 ‰	60 ‰	40 ‰	30 ‰
Malnutrition	19 %	38 %	25 %	19 %
Access to safe drinking water	100 %	48 %	80 %	98 %
Access to proper latrines	100 %	47 %	65 %	90 %

Source: *National Programme of Action for Children*, Burundi, November 1992, p. 31

153. These objectives, which were set before the civil war, now look optimistic. The exact figures for 1997 are not known, but it is clear that they will have been much worse, given that the rate of acute child malnutrition, for example, increased by 100%. The figures and objectives for the year 2000 all need to be revised. The Ministry of Public Health is currently engaged in this task as part of the sectoral health policy which it drew up in April 1996.

154. By adopting, in February 1991, the World Declaration on the Survival, Protection and Development of Children, Burundi made a commitment to reduce the rates of infant mortality, under-five mortality, maternal mortality during childbirth or due to maternity-related complications, and of malnutrition. It also undertook to improve access to drinking-water and proper latrines.

155. The Government is making efforts to ensure the proper functioning of medical and paramedical structures, but the problems are many: insecurity, shortages, destruction and rehabilitation, staff shortages, inflation, medical supplies and so on. A major human resources redeployment programme is under way: each province now has a chief medical officer, and paramedical staff are being encouraged to divide up regions between them.

156. Regulation of hygiene helps to promote the survival and development of the child. The rural water board is making efforts to distribute clean water through use of systems such as the "rusengo" (public standpipe), water conveyance, pumping and collection of rainwater in cisterns.

157. In the area of sanitation, rural households have made particular efforts to acquire sewage disposal systems that meet hygiene criteria. The Government, with the help of non-governmental organizations, also invests in sanitation. Accordingly, improved latrine equipment has been presented and distributed (4,000 family latrines installed since 1988), together with about 100 other, more sanitary, models, designed for schools or health centres. However, the unit cost of this equipment (120 ECU) makes it inaccessible to the majority of the population.

158. Collective hygiene and sanitation infrastructures are generally lacking in the regroupment, displaced, and repatriated persons' camps. This is the cause of illnesses associated with the lack of safe drinking-water and with poor hygiene, illnesses which affect children first and foremost. There is a camp at Mukoni, for example, close to the Muyinga provincial capital, with some 2,778 displaced persons, of whom 1,932 (70 per cent) are children. The camp is relatively well organized, but water and hygiene problems continue to give cause for concern.

159. With regard to improving housing, the public authorities have launched a programme for decent housing for all by the year 2000. Specialized institutions established to finance and oversee the construction of homes include the Public Real Estate Company, the Finance Company for Rural Development, the Urban Development Company of Bujumbura, the Social Construction and Land Development Board, the Fund for the Urban Development and the Rural Development Fund. Both the State and these bodies provide loans, construction materials (particularly sheet metal) and advice. There is considerable reconstruction work to be done.

160. Education of mothers is another determining factor in the health and welfare of the child. The better educated the mother, the better the child's

chances of survival and development. Education opens up new horizons for the mother, particularly in the areas of family planning and nutrition. The State is actively involved in this area and receives support from several non-governmental and international organizations, including:

- The Centre for Family Development, which is involved in female literacy and hygiene education programmes;

- The United Nations Population Fund (UNFPA), which finances adult literacy, family planning, health, vaccination and maternal nutrition programmes;

- The Information, Education, Communication (IEC) project, which seeks to encourage the population to limit the size of families in the hope of finding a long-term demographic solution that is consistent with the well-being of the family;

- The National Programme to Combat Leprosy and Tuberculosis (PNLT);

- The Hygiene Training and Education Programme (PFEH);

- Several collaborative projects with UNICEF, WHO, UNFPA and others.

B. Health and health services (art. 24)

161. In the area of health, the Government has demonstrated its commitment to expanding the health care infrastructure in rural areas. Between 1976 and 1987, the number of hospitals rose from 19 to 32, while the number of health centres rose from 18 to 214. In 1997, taking into account the damage caused by the armed conflict, these figures stand at 33 and 285 respectively. Almost 100 per cent of the urban population and 79 per cent of the rural population had access to health services between 1990 and 1995. Around 80 per cent of the population of Burundi lives within a 5-kilometre radius (an hour's walk) of a health centre. However, at a certain point in the past, many people stopped going to the centres because of fears over the security situation along the roads. The situation has improved considerably from this point of view.

162. The level of geographical coverage is therefore quite good: estimates suggest that there is one hospital for every 180,000 inhabitants. However, regional disparities are marked and often work in favour of the capital. Owing to insecurity in rural areas, 70 per cent of doctors are concentrated in Bujumbura, where only some 4 per cent of the population lives. As mentioned above, a vast programme for the redeployment of health professionals is under way and should ensure that vital personnel are brought back to the regions. It will not be easy to replace the qualified personnel who have disappeared.

163. The health system is decentralized and operates at three levels:

- The central authorities have overall responsibility for the formulation of sectoral policy and the design of health intervention strategies;

- The (15) provinces work at the intermediate level and are responsible for the delivery of care and pharmaceuticals management in the provinces;

- On the periphery are all the health centres. There were a total of 285 health centres in 1996, of which some 240 were functioning. That figure looks set to rise to 300 by the year 2000.

164. Health expenditure per capita is around $7. Between 1984 and 1994, the proportion of the ordinary budget allocated to health care was in the range of 5 to 6 per cent of the State's operating budget. The figure fell to 3 per cent in the triennial crisis budget announced in January 1997 (Budget Programme for the 1997-1999 Plan of Action). Out of a total budget of some Bfu 281 billion (around ECU 800 million), 3 per cent, or Bfu 8.57 billion, was allocated to health.

165. Particular efforts have been made to reduce infant mortality rates, which are higher in rural areas than in urban centres. The following are the major causes of infant mortality:

- An unfavourable natural environment in certain regions of the country;

- Malaria in low-lying areas, but also in certain regions of the high plateaux;

- Acute respiratory infections caused by sudden temperature changes in mountain areas;

- Unhealthy conditions for childbirth, with 80 to 90 per cent of deliveries being carried out at home in conditions likely to cause maternal and infant infections;

- Inadequate and/or unbalanced diet;

- Traditional basic hygiene and nutritional practices which place children at greater risk of contracting diarrhoeal or infectious diseases;

- The development of AIDS, particularly in Bujumbura and in small urban centres, where the scourge has reached alarming levels.

166. In order to tackle these problems, and to honour its commitments under the World Declaration for the Survival, Protection and Development of the Child and the Universal Vaccination Declaration, in April 1996, the Government of Burundi devised a new health policy based on a number of health strategies focusing on primary health care. The following programmes are included:

- The Programme to Combat Diarrhoeal Diseases.
- The Programme to Combat Iodine Deficiency;
- The National Programme to Combat AIDS and Sexually-Transmitted Diseases (PNLS/MST);

- The Maternity Without Risk Programme;
- The Basic Medicines Programme;
- The Health Education Service;
- The National Plan to Combat Malaria;
- Preventive Hygiene Education;
- The Expanded Programme on Immunization (EPI). In 1992, Burundi reached the best ever level of immunization coverage. Most children under 5 years of age were vaccinated against measles, tuberculosis, polio, diphtheria or typhoid fever.

Year	Tuberculosis	Polio	Dysentery/ typhoid/ cholera	Measle
1990	96	85	85	74
1991	93	77	82	78
1992	90	82	80	70
1993	74	69	63	62
1994	62	50	48	43
1995	77	62	63	53
1996	64	52	55	50

Source: *Ministry of Public Health*

C. Disabled children
(art. 23)

167. In terms of medical treatment, care is provided to spastic children in a number of reception centres for the disabled, the best known being:

- The Kiganda Centre for the Physically Disabled;
- The Makamba Centre for the Disabled;
- The National Centre for Disabled Persons, at Bujumbura;
- The National Social and Professional Rehabilitation Centre, at Jabe;
- The Kanyina Centre for the Disabled;
- The Bwiza Centre for the Disabled;
- The Gitega Equipment and Reeducation centre.

Sensory disabilities are dealt with, inter alia, by the Gihanga Centre for the Blind, the Mushasha Centre for the Blind and the Chez Johnson Centre for the Deaf and the Blind.

168. There are other centres as well, mostly in the private sector. The Government provides incentives to the private sector through subsidies, tax breaks and exemption from levies on extraordinary budget funds. Non-governmental organizations and the Church play a decisive role. The State does not provide specialized education for persons with sensory or mental disabilities. From an educational and professional point of view, there are virtually no specialized teaching hospitals or institutions able to receive children with disabilities and to provide reintegration assistance.

169. Persons suffering from mental disabilities can be referred to the Kamenge Neuro-Psychiatric Centre (CNPK), which is managed by the Brothers of Charity and situated in Bujumbura. A total of 26, 951 consultations have been made at the centre since it was established in 1980. Forty per cent of these were for women and girls. Over the last few years, the number of patients being brought to the centre has fallen, as people from the interior have stopped coming to Bujumbura out of fear over the security situation along the roads and the risk to their safety. The CPNK has also stopped providing care in the field, even though the number of physical traumas has increased because of the civil war.

170. The difficulties are many: shortages of orthopaedic equipment, financial resources, locums, interns and qualified personnel. The crisis and the embargo have only served to exacerbate an already difficult situation.

171. A study carried out in January 1995 on the state of women's and girls' reproductive and mental health in situations of conflict clearly revealed the high number of cases of psychic trauma in the regroupment camps. More than 40 per cent of women/girls are affected. A system of psychosocial and medical care is required.

172. Another study, also conducted in January 1995, looked at the trauma suffered by children, particularly unaccompanied children, in the current crisis in Burundi. The study focused on a sample of 2,770 unaccompanied children under 18 years of age in three provinces badly affected by the conflict (Gitega, Ruyigi and Muyinga). The results showed that almost all of the children had witnessed acts of violence, and that 93.4 per cent had seen or experienced violence at close hand without being able to do anything about it. Some of the children had seen their parents being killed and their houses burned. Several had been chased, beaten and wounded. This type of violence leaves physical and mental scars. Many of these children are prone to bouts of delirium, psychomotor problems, neurotic disorders, loss of speech or aggression.

173. There are no public or private institutions for the protection and development of pre-school disabled children. The role of the family is decisive in this area.

174. The Government's strategy for disabled children is based on prevention through measures designed to improve mothers' and infants' health, including family planning and vaccination programmes. The Government is also planning to increase the number of specialized education and training centres for disabled children, and to institute a policy of assistance to the families concerned, providing incentives for the social and professional integration of disabled persons. This entire strategy could be undermined, however, by the limited resources available in the current situation.

175. In the area of education, Government policy aims at assuring the integration of disabled children into the ordinary education system to the maximum extent possible, and at increasing employment opportunities for children with disabilities by providing vocational training. It should be noted, however, that while the Government has set a target of universal primary school enrolment by the year 2000, little attention is given to disabled children in general, and to children suffering from sensory and mental disabilities in particular. The State does not provide any form of special education for such children.

176. Finally, in the area of employment, the principle of equality of opportunity and treatment is enshrined in article 6 of the Burundi Labour Code. However, the Code makes no specific reference to disabled persons.

D. Social security, child care services and institutions (art. 18, par. 3 and art. 26)

177. Burundi does not yet have a comprehensive system of social security. Farmers, who represent around 90 per cent of the population, are not covered by any social security regime.

178. The State does provide insurance coverage for school children through a number of insurance companies (the Burundi Insurance Company, the Commercial Insurance and Reinsurance Company). State pensions are also paid to retired civil servants. The National Social Security Institute (INSS), a public administrative body, provides cover for persons in the private services sector and in the army. Children being cared for by civil servants and workers in this sector enjoy a certain level of coverage through this system.

179. The State, through the Civil Service Mutual Insurance Company, contributes to reimbursement of health care costs for civil servants and their families, paying 80 per cent of their medical expenses. A health insurance card is also available at an affordable price (Fbu 500 for farmers and Fbu 1,500 for shopkeepers and others), offering access to medical care in hospitals, dispensaries and public health centres. There are a few, privately-run, nurseries in urban centres, taking in children during the day while their parents are at work.

E. Standard of living (art. 27, par. 1 to 3)

180. Article 6 of the transitional decree-law recognizes the right of all individuals to development and self-realization, in conformity with the conditions set forth in the decree-law, with the need to protect public order (ordre public), with accepted standards of behaviour and with respect for the rights of others.

181. In practice, the child's standard of living is determined by the resources and means available to his or her parents and to the State. Burundi is considered to be one of the poorest countries in the world. It is ranked 169th in the world among the countries included in the UNDP human development index (HDI).

182. No time series are available to analyze the evolution of poverty in Burundi over time, but the poverty line has been set at two-thirds of total annual average per capita expenditure. A 1990 study of budgets and consumption in rural areas, and a 1991 study of households in Bujumbura, showed that over 36 per cent of the rural population and more than 42 per cent of the population of Bujumbura were living below the poverty line. By 1994, the figure being mooted was of the order of 60 per cent.

183. The 1993 crisis precipitated further economic decline and the embargo, which has been imposed on Burundi by the neighbouring States since August 1996,

has caused the economy to contract even further. Income per capita therefore fell from ECU210 in 1992 to ECU180 in 1993, and to around ECU160 today. Inflation has risen and standards of living have fallen generally. Disaster-stricken populations are living in absolute poverty. Poverty is now widespread and the crisis and embargo have had a marked impact both on the current levels and the extent of poverty in the country. While a more detailed evaluation of the phenomenon is needed, its existence is undeniable.

184. A large section of the urban population of Bujumbura depends on formal commercial and industrial activities, both of which have been hit hard by the embargo. The number of families living in poverty in the city has grown. In rural areas, one might have thought that the practice of subsistence farming would have allowed peasants to better absorb the shock: while this has been true in some cases, insecurity surrounding access to fields, seeds and tools has adversely affected most peasant farmers. As for regrouped populations, they are wholly dependent on humanitarian aid.

185. In conditions of poverty such as these, children are particularly vulnerable as a group. According to a 1995 World Bank study of the profile of poverty, female heads of household are the most vulnerable group (a common phenomenon in the emergency camps). They are likely to be illiterate, to have a family of more than six persons and to have no income other than that derived from agriculture. This group is known to face a multiplicity of problems: a high rate of malnutrition among children under 12 years of age, very modest expenditure on social services; inability to pay the costs of children's education; poor living conditions; no access to safe drinking water and exclusive dependence on firewood.

186. The Government is making efforts to improve the standard of living of rural populations, particularly through the work of the Ministry of Agriculture and Livestock and of the Ministry of Communal Development and Handicrafts. The Ministry of Agriculture and Livestock provides peasant farmers with advice on food and cash crop cultivation, focusing on ways of increasing the prices paid to growers of export crops such as tea, coffee and cotton. Indeed, a return to sustainable growth can only be assured through revitalization and reform of the agricultural sector. The Ministry of Communal Development and Handicrafts, with the help of its partners, has responsibility for construction of schools and health centres, environmental development and the supply of drinking water.

187. The Government and non-governmental organizations have adopted a voluntarist policy on women. The family's standard of living is a function of the situation with respect to the advancement of women. In this area, the Ministry for the Advancement of Women and Social Action helps women to establish their own associations, some of which generate income, while others focus on the advancement of women or the defence of women's rights. The following are the better-known associations:

- The Association for the Economic Advancement of Women (APEF);
- The Women's Peace Group (REMA);
- The Women's Democracy and Development Alliance;
- The Burundi Widows' Association;
- The Association of Women Lawyers;
- The Association of Female Heads of Household;
- The Savings and Mutual Lending Banks (CECM).

188. An interim evaluation of the project Children in acute distress, undertaken by the Government and its partners in June 1997, offered an opportunity to review the many activities that had been carried out in this area and to stress the need for greater coordination between the various partners. The exercise took account, on the one hand, of the gradual return to stability in the country, and, on the other, of the scale of the tasks involved. Displaced and regrouped children do not have enough to eat, do not have proper clothes to provide protection against inclement weather and do not wash: these children are totally destitute.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, training and vocational counselling (art. 28)

189. Burundi has acceded to the International Bill of Human Rights and recognizes that education is a fundamental right to be enjoyed by all children without distinction on the ground of gender, race, religion or regional provenance. Decree-law No. 1/025 of July 1989 on reorganization of the Burundi education system establishes the framework for Burundi education and constitutes the principal legal text with regard to education at all levels.

190. Primary education comes under the remit of the Ministry of Education, Basic Instruction and Adult Literacy. Secondary education is the responsibility of the Ministry of Secondary and Higher Education and Scientific Research. The Ministry of Labour, Handicrafts and Vocational Training has responsibility for vocational training. Finally, the informal sector also has its own ministry: the Ministry of Youth, Sport and Culture.

191. This demonstrates how difficult and complex the task of designing integrated, coherent and coordinated education policies can be.

192. The Government is making every effort to assure the survival and rehabilitation of education, helping it to move forward in the spirit and practice of non-discrimination and of respect for the best interests of the child. The task of continuing, within reason, to provide education at all levels during the crisis was taken both as a duty and a privilege.

193. Paragraph 2, article 24 of the transitional decree-law recognizes that parents have a natural right and duty to educate and raise their children, and that they are supported in this task by the State and by domestic institutions. Article 26 of the decree-law goes even further: every citizen has the right to equal access to instruction, education and culture. The State is responsible for the organization of the public education system. The right to establish private schools is also guaranteed, subject to such conditions as are prescribed by law.

Primary education - Statistical update

		1995-1996	1996-1997
Total population (estimated)	MALE	2 934 273	2 985 943
	FEM.	3 100 344	3 155 143
	TOT.	6 034 817	6 141 086
Population eligible for primary school education (7 to 12 years- estimated)	MALE	496 693	505 405
	FEM.	504 378	513 293
	TOT.	1 001 071	1 018 698
Population of eligible school age (7 years) (estimated)	MALE	95 351	97 023
	FEM.	96 163	97 863
	TOT.	191 514	194 886
School enrolment (all ages)	MALE	231 241	242 295
	FEM.	195 294	201 898
	TOT.	426 535	444 193
School enrolment (7 to 12 years)	MALE	-	162 254
	FEM.	-	140 610
	TOT.	-	302 864
No. of primary schools		985	1 128
No. of classrooms		6 548	7 285
No. of teachers		9 252	-
Gross primary school enrolment ratio (%)	MALE	46,56	47,94
	FEM.	38,72	39,33
	TOT.	42,61	43,60
Net primary school enrolment ratio (%)	MALE	-	32,10
	FEM.	-	27,39
	TOT.	-	29,73
Primary school enrolment ratio in first year (%)	MALE	43,82	62,33
	FEM.	36,38	51,20
	TOT.	40,08	56,74

Source: *Government of Burundi/Unicef, September 1997*

194. A number of measures have been implemented in the areas of administration and infrastructure management in order to give effect to the Government's policy of non-discrimination. They include:

- **Efforts to ensure universal primary school enrolment among children aged between 7 and 12 years by the year 2000, an objective that is unlikely to be achieved, thanks to the negative effects of the crisis and the embargo;**

- The use of double sessions for teachers and in schools since the 1982-1983 academic year, resulting in a rise in the number of children in school from 180,000 in 1981 to over 600,000 in 1992. The crisis caused primary school enrolment ratios to fall, but they rose again sharply in the 1997-1998 academic year, thanks to an effective awareness campaign by the media, to improved security, to greater accessibility and to the creation of so-called temporary schools in densely-inhabited areas;

- The fees which parents have to pay for primary education are relatively affordable and should not constitute a barrier to the children of poor families. The ministerial directive is firm and clear: there shall be no discrimination against indigent children. In practice, however, headmasters continue to send indigent pupils home, if they have not paid their fees (between FBu 500 and 700).

- Transborder education, which is provided in Burundi border refugee camps, opens up the possibility of return. Pupils receive credit for their work and teachers enjoy a degree of professional continuity. This system has been established to help eliminate any discrimination that might occur against refugee children once they return to the country.

- Reduction of regional disparities in student identity cards.

- Incentives for private primary and secondary schools.

- Introduction of communal colleges, operating at the level of the *commune:* these schools are designed to improve local access to secondary education and represent a veritable revolution in non-discriminatory access to secondary education for young persons. More than 200 communal colleges have been set up, but problems with the availability (quantity and quality) of materials and teachers have meant that few of them are actually operating.

195. The progress that had been achieved by the eve of the crisis has now been seriously undermined, as illustrated below:

- Before the crisis, any student who wanted a place in Burundi's education system was able to find one. Students were allowed to repeat a year. The gross primary school enrolment ratio for the year 1993-1994 was 78 per cent for boys and 62 per cent for girls, or 70 per cent, if both groups are taken together. With the crisis, these ratios plummeted to an estimated 47.94, 39.33 and 43.60 per cent respectively for the year 1996-1997;

- The child receives guidance according to the options he or she chooses at the end of a cycle. The child can appeal if he or she is not satisfied with the results obtained. The Government strives to reconcile the choices which school children make with existing career opportunities and the actual needs of the country.

196. In an effort to ensure universal access to basic instruction, other forms of education are provided in Burundi in addition to formal education:

- Pre-school education helps prepare young children for primary school. This type of education is mainly available in urban centres and in the private sector. It is less common in rural areas. In all cases, this stage is neither indispensable nor obligatory;

- Informal education helps to increase literacy among adults and young persons who have either dropped out of, or never been to, school. The literacy rate is estimated to be 66 per cent. In addition to the National Literacy Service (SNA), other basic education models are used by religious denominations, combining preaching with teaching.

For example, the Yaqa Mukama basic education centres, organized at the parish level by the Catholic Church (CED-Caritas), cater for a total of almost 200,000 young persons. Similarly, the literacy centres of the Community of Burundi Pentacostal Churches (CEP-BU) serve around 100,000 young persons. The hours and subject matter clearly differ from those in the official primary school system, but perhaps, one day, these parallel paths will merge into a combined system that can only help to raise the level of school enrolment in the country. In the informal sector too, there is at least one centre in each of the (116) communes teaching unemployed children (school drop-outs or uneducated children) a trade. The centres focus on laying the groundwork for the social and economic integration of such children.

197. Organization of education in Burundi is hampered by a number of problems, including:

- The growing strain on financial and material resources, together with a shortage of qualified personnel;

- Low capacity of technical and vocational schools, given the high costs of the sector: the crisis, the embargo and the decline in official development assistance to this sector have forced most schools, in the absence of technical resources, to revert to general teaching;

- The reluctance of parents in certain regions to send their children to school because of family burdens: more often than not, it is young girls that are held back from school.

198. As previously stated, universal primary school enrolment by the year 2000 is one of the main targets of the Burundi education system. Satisfactory results had been attained just before the crisis struck. The war has since acted as a powerful brake on the realization of this objective. An awareness campaign, launched with a view to revitalizing the objective of universal primary school enrolment, has helped to raise school enrolment ratios this year.

Objectives for the year 2000

Indicator	World Summit Objective	1990	1997	2000
Primary school enrolment ratio	100 %	75 %	90 %	100 %
Net primary school enrolment ratio	80 %	52 %	70 %	80 %

Source : *National programme for children*, Burundi, November 1992, p. 31

199. In reality, these targets were not met in 1997, largely because of the crisis. The true primary school enrolment and net primary school enrolment ratios were respectively 56, 74 and 29.73 per cent over the course of the 1996-1997 academic year.

200. Education's share of the transitional programme budget for 1997 to 1999 (January 1997) was 7 per cent, covering the costs of the Ministry of Education, Basic Instruction and Adult Literacy (4.87 per cent), of the Ministry of Secondary Education, Higher Education and Scientific Research (1.54 per cent) and of vocational training provided under the auspices of the Ministry of Youth, Sport and Culture (0.41 per cent).

201. The crisis has had a profound impact on the education sector. In several regions of the country, infrastructure has been destroyed, school furniture has been used for heating and school buildings have been occupied by displaced persons seeking shelter. The Ministry of Education estimated in January 1997 that only two-thirds of the country's 1,500 primary schools were functioning. Out of 156 secondary education institutions, only 100 are functioning. Although primary school enrolment ratios have risen, one child in two does not go to school. There are several reasons for this: the lack of security, the shortage of teachers in rural areas, the shortage of classrooms and teaching materials and, finally, the fact that parents can not afford the cost of schooling. The fall in the number of primary school teachers is estimated at 20 per cent. To compensate for the shortfall, over 3 000 poorly qualified or unqualified teachers have been recruited: they perform adequately, but have few skills. Around 700 teachers are needed at the secondary school level. Imports of school materials are prohibited under the embargo, inflicting direct harm on children.

202. In addition, financial difficulties are leading to the gradual demise of the secondary school boarding system.

203. There is a need for clear and coherent policies and coordination of effort in the informal sector to prevent confusion over roles. For example, there is a ministry responsible for youth and a ministry responsible for education, the National Council for Childhood and Youth (1989), a consultative body working with the Prime Minister, and the Burundi Childhood Foundation (1990), an executive body with no very clear role. All of this creates confusion over mandates and roles. A committee is currently working on a review of areas of overlap.

B. Aims of education (art. 29)

204. The aims of education are defined in article 19 of Decree-Law No. 1/025 of 13 July 1989, which regulates reorganisation of education in Burundi. The purpose of basic education is to lay the foundations for the moral, civil and intellectual development of children, providing them with fundamental general and elementary knowledge.

205. Basic education is designed around adaptation to national realities and the development of moral qualities. Some important reforms were introduced in 1973 to adapt programmes to national realities, particularly through the ruralization of education and through the provision of instruction in the child's natural environment.

206. Positive values such as respect for human rights, fundamental freedoms and the principles enshrined in the Charter of the United Nations, and for a spirit of tolerance, peace and mutual understanding are imparted through civic education at primary, secondary and higher education institutions.

207. Catholic action movements and other youth associations also help to disseminate positive values and encourage positive behaviour.

208. Traditionally, Burundi education preaches by example. Schools therefore accord particular importance to their relationships with parents. Important decisions are taken in consultation with boards of parents, teachers and administrators. Students are also represented. The views of the child are heard and children are involved in the task of drawing up school rules (par. 70 to 74 above).

209. Together with its partners, Burundi places particular emphasis on initiatives relating to the Education for Peace Programme. These include the Education for Peace project at the secondary school level and the Bâtissons la Paix (Let us Build Peace) project at the primary level. A committee has been set up to redesign the civic education curriculum so as to place greater emphasis on the sections dealing with human rights, the rights of the child and peace. This course is designed for students at secondary school and in higher education. Efforts are also continuing to set up "peace clubs" in secondary schools. Several other public and private initiatives have also been launched with a view to "bringing people closer together around the ideal of tolerance and respect for human rights."

C. Leisure, recreation and cultural activities (art. 31)

210. Apart from situations of conflict, Burundi children grow up in a relatively positive environment with regard to leisure, games and artistic and cultural activities.

211. The so-called Tournoi de l'espérance (The Hope Tournament), a national football competition, is held on a regular basis among primary schools. Athletics and other sports are also taught .

212. Primary school children take part in African and international design and essay competitions. They perform each year at school fairs and shows.

213. Theatre work is done mainly at secondary school. Students also participate in various athletic competitions and volleyball, football, handball, basket ball and table tennis tournaments.

214. Cultural and artistic expression are taught through the study of plastic and musical arts, using traditional dance. Other elements of culture are taught at school and at home.

215. The Ministry of Youth, Sport and Culture makes a major contribution to socialization of young persons through the use of games and culture. The Ministry recently held the Seventh Festival of Youth, organized around the theme: "Youth of Burundi, let us join together around the ideals of peace, brotherhood and tolerance through our culture and let us burn with ardour for the reconstruction of our country." The Ministry's Education for Peace and Reconstruction project and the Youth Organizations' Collective have also held a festival.

VIII. SPECIAL MEASURES FOR THE PROTECTION OF THE CHILD

216. Burundi has its own Ministry for the Advancement of Women and Social Action. Less than 1 per cent of the transitional programme budget (1997-1999) has been allocated to the protection of vulnerable groups (0.45 per cent) and to the advancement of women (also 0.45 per cent). The sectoral policy of the Ministry's focuses on three main areas of social action, namely social welfare services, social rehabilitation and social reintegration.

217. With regard to social welfare for abandoned children and orphans, the strategy is one of encouraging placement of children through adoption or fostering. Reception centres are few in number and have limited capacity. Only 4 per cent of AIDS orphans can be placed in institutions. Bujumbura's official orphanage has a total of 62 children. All together, facilities throughout the country, including private orphanages, accommodate a total of 2,000 children. The State seeks to promote a policy of placing children with families.

218. The focus of social rehabilitation efforts is to increase the number of specialized education and training centres for the disabled (see Chap. IV.C). A further objective is to put in place a policy of assistance for the disabled family, together with a policy of offering incentives for the social and professional integration of disabled persons.

219. Social reintegration can only be achieved through mechanisms that allow vulnerable groups to resume and lead a normal life in their community. There is a long way to go before these mechanisms begin to work. Non-governmental organizations, and the Church in particular, do a great deal for vulnerable groups.

220. Significant shortcomings can be found in the area of social protection. The Government has acknowledged the need for a national social protection plan. A detailed study carried out for that purpose in February 1997 highlighted the following:

- Gaps in legislation and regulations governing social welfare provision and social protection: there is no clear and coherent policy, let alone legislation, regulating the provision of public and social welfare or social protection. The tendency has been to deal with social problems as and when they arise, a practice that has become even more pronounced in the present climate. However, things have reached such a point that, once the crisis is over, lawmakers will have to work hard to get a clear picture of the current situation, to develop a long-term vision of how they would like things to look in the future, and then design legislation and regulations accordingly. For indeed, the first and successive crises have led to the total transformation of Burundi society.

- Organizational shortcomings and poor functioning of existing structures, owing to the lack of clear and coherent laws and regulations: by and large, assistance is provided to target groups without any clear idea as to the numerical significance, problems or needs of such groups, or of larger trends. Moreover, too often, provision of social protection is ad hoc and poorly coordinated. Finally, personnel tend to be in short supply and underqualified.

A. Children in emergency situations (art. 22, 38 and 39)

221. To reiterate, by ratifying the Convention on the Rights of the Child, Burundi committed itself to ensuring the survival, development and protection of all children up to the age of 18. It solemnly reaffirms this commitment in article 24 of the transitional decree-law, which states: "Every child has the right to receive from its family, society and the State such special measures of protection as are required by his or her condition as a minor."

222. Before the crisis, children in emergency situations were essentially orphans, abandoned children, children with physical or mental disabilities, socially maladjusted children or children living in extreme poverty. Such children were cared for by official or private orphanages with the support of the Department of Social Protection, a department set up by the authorities specifically for this purpose.

223. Since 1993, the category of vulnerable children has widened to include children of war: refugee children, displaced children, dispersed children, regrouped children and repatriated children. As elsewhere, war takes everyone by surprise, making it difficult to assure the protection, survival and development of children in keeping with the principles and provisions of the Convention on the Rights of the Child. However, good faith efforts continue to be made, particularly at times of greater peace. In 1993 and 1994, children were subjected, along with their parents, to the cruelty and harm caused by civil war. Nonetheless, the 1995 report on the work of the AENA project, which provides assistance to unaccompanied children, shows that some encouraging results have been obtained in care for children, including:

- The presence in the field of social workers trained to deal with unaccompanied children's problems;

- Possible identification of, and follow-up on, unaccompanied children;
- Distribution of "starter" kits, educational material and health insurance cards to unaccompanied children;
- Search for guardians with whom unaccompanied children can be placed;
- Organization of self-expression workshops for children suffering from trauma;
- Production of a manual on child trauma for social workers and parents: Helping a traumatized child, a manual for parents and other educators, published by Unicef/AENA in June 1996, 58 pages;
- Translation into Kirundi of the Convention on the Rights of the Child;
- Holding of an awareness-raising seminar for magistrates and journalists on the principles and provisions of the Convention on the Rights of the Child.

224. Regardless of the particular circumstances of each case, children traumatized by the effects of war can be divided grosso modo into three age groups: children under 6 years of age, children aged between 6 and 12 years and children over 12 years of age. These children exhibit three different types of symptoms and require three different types of therapy.

225. Typically, children under 6 years of age have a high degree of physical and psychic dependence on their parents. With the breaking of this vital bond, symptoms manifested include anxiety, fretfulness, panic, crying, regressive behaviour and language difficulties. Separation from the family has destroyed their equilibrium. The priority is to find new families for these children, a task in which both the public and private sectors are actively engaged. These children can be saved, but need to be drawn out from the indescribable sadness that one can see behind their blank stares. They receive help with expressing their repressed feelings, using pictures, dance, music, dialogue and so on, that is, through the creation of a reassuring and stable environment.

226. Children aged between 6 and 12 years depend on a wider environment and are aware of their misfortune. More often than not, their family circle has also been torn apart and their egos are not strong enough to enable them to defend themselves alone. These children therefore tend to withdraw from the outside world and to distrust and fear others (phobia). They tend to behave in anti-social ways, showing signs of social apathy, vengefulness, aggression and escapism. The children in this group need a new and reassuring environment. They need a reference point, and placement with a family is the best means of providing one. School or work are vital to their sense of personal worth and help with resocialization by creating new points of reference.

227. Children over 12 years old are in a group that is already going through change and asking questions about identity, environment and relationships. At this age, children react like adults, recognizing that automatic solutions do

not exist. Such children set up defence mechanisms, some of which may be pathological. They can be overwhelmed by depression, letting themselves go and losing all interest in the outside world. Deprived of a reference point, some can easily become involved in behaviour bordering on delinquency, including, in the case of girls, prostitution. Children in this at risk category are very vulnerable and can easily be exploited. They need supervision. School and employment are vital. These children need to get back their confidence.

228. Generally speaking, the foster family and new social environment should be as similar as possible to the previous one, if further trauma is to be avoided. Priority is given to family reunification and family reconstruction. Support needs to be given to the new social circle (the family, foster home, educators, social workers, administrators, etc.) in order to help members to better understand the trauma suffered and the therapy required. With this in mind, in June 1996, the AENA project published a manual for parents and educators entitled Helping a traumatized child. The manual needs to be distributed as widely as possible.

229. The Government has arranged for the construction, using local materials, of so-called temporary schools in disaster areas where regular schools either are not working or are too far from the regroupment centres.

230. The age of recruitment into the armed forces is set at between 16 and 25 years. In practice, the age limit is 18 years. The recruit must also have a primary school leaving certificate. In 1993, there were almost 15,000 men in the army. The size of the army has grown significantly and the average age of soldiers has fallen in recent years. A large number of men is needed for surveillance activities and for overall defence of the territory, the population and the social and economic infrastructure.

231. One often finds children who gravitate towards the armed forces wherever they may be. For example, the so-called doria (literally ear agent) are young children under 15 years of age who look like school children and who roam around camps picking up information and passing it on to other people. There are also itinerant children, who somehow manage to be taken in by a particular a military camp and who occasionally perform little services in return. At least in this way, they are able to eat and survive. In the Cibitoke region, one can also find groups of young persons who refer to themselves as the Keepers of the Peace. These children are former child soldiers who are radical converts to non-violence. Finally, more worryingly, there are children who have either been pressed into, or who have volunteered to join, armed groups. Such children are child soldiers. They exist, they are under 18 years of age and most have learned how to handle weapons. These children are recruited either in the refugee camps abroad or during raids on their schools or in displaced persons' camps and are then taken away. Students are the preferred target, because they have better intellectual skills and are therefore easier to train and manipulate.

232. Burundi has instituted a system of compulsory community service for all young persons who have completed secondary school education, usually at the age of 18. This is defined as compulsory community service for all citizens (Decree-Law No. 1/005 of 1 December 1996 concerning compulsory community service). It consists of unpaid, compulsory service for the State rendered in areas relating to the public interest or development.

233. Burundi is a party to the African Charter on the Rights and Welfare of the Child (18 November 1990), which requires States Parties to observe and to ensure compliance with the norms of applicable international humanitarian law in situations of armed conflict. No child should participate directly in hostilities, nor be enlisted in the military. Protection of the civilian population and of children is compulsory.

B. Children in conflict with the law (art. 37, 39 and 40)

234. Juvenile delinquency appears to be on the rise because of the crisis and the spread of poverty. If ignored, the problem could quickly become a major cause of concern. The incidence of juvenile delinquency could rise in the next few years, if the present generation of young children who have been the helpless witnesses to violence perpetrated against their immediate circle and families in adolescence, begin to express violent feelings that have been repressed in childhood.

235. Street children first appeared in the Muyinga Province after the war. About 100 children regularly leave emergency camps to do small jobs in the provincial capital, particularly on market day. One non-governmental organization has set up a couple of classrooms for them, but absentee rates are very high. In Bujumbura, the nation's capital, one can sense the tension created by street children. Children are on the streets because they have no homes to go to, because of urbanization and the spread of poverty, because they have rebelled against their families or society, or because their families have asked them to go and out and beg. There are other reasons too, but the important point is that such children provide the household with a little additional income. Many of these children drink. This is a recent phenomenon which the Enfants Soleil project is trying to counter by providing counselling services to some 250 street children each day (social and family reintegration, social and health assistance, educational follow-up for primary school children, training workshops, affective support, literacy programmes and so on). Several non-governmental organizations offer the same kind of assistance throughout the country.

236. It is not easy to gauge the numerical significance or scale of problems experienced by children in conflict with the law. Several non-governmental organizations are working specifically on the rehabilitation and social reintegration of these children. Neither the police nor the courts have particular experience of dealing with cases of children in conflict with the law. The authorities do not appear to pay much attention to delinquency, except in certain specific cases (car theft, fighting and so on). On the other hand, everyone agrees that juvenile delinquency is an important issue.

237. As of 31 May 1996, there were 6,579 persons being held in prison, of whom 5,523 were in preventive custody and 1,020 had been sentenced. In June 1997, the total prison population was 8,700. The number of children living in prisons is relatively low at around 50, while the number of women prisoners is around 260. Several women (47) are accompanied by a child.

238. The projects Enfants et mères incarcérés (Mothers and children in prison) provides assistance to young children who are with their mothers in prison.

Mothers can keep their children with them up to the age of 3. Women have separate quarters and there is a special, women's prison in Ngozi. The aim of the project is to provide social assistance and a teacher for each prison so as to help with the reintegration of three-year-old children, not always an easy task.

239. There are two categories of children in prison. These are:

- Nursing children, who are with their mothers, who are not prisoners and who are tolerated for clear humanitarian reasons. The best interests of the baby are often to stay with the mother: this is allowed up to the age of 3. There are approximately 50 such cases (47, to be precise, in 1997).
- Child prisoners who are either in preventive custody or who have already been sentenced: there are around 50 such cases.

240. Social protection for children in prison focuses on two priority areas:

- Improvement of living conditions: the provision of separate accommodation and appropriate counselling is a fundamental issue and currently a "hot topic";
- Respect for rights: prisoners' rights needs to be promoted, particularly with regard to the expediting of untried cases. Like adults, children can remain in preventive custody for a protracted period of time.

241. Deprived of their freedom and placed in a prison environment for a period of time that varies according to the gravity of the offence, child prisoners (of which there are few) retain all of the other rights accorded to the human person.

242. It is very rare for a child to be sentenced to a term of imprisonment. Society prefers to use corrective measures such as admonishments and reprimands, having recourse to the judicial system only in cases of absolute necessity. Even then, judges often prefer to impose non-custodial sentences for child offenders. Children are able to maintain contact with their family during incarceration. The United Nations Centre for Human Rights organizes advanced courses for judges on special treatment of minors.

243. The Criminal Code shows leniency towards juvenile delinquency. If a child is under 13 years of age, legal infancy constitutes sufficient grounds for exemption from criminal liability. A minor aged between 13 and 18 years receives favourable treatment, in so far as his or her minority constitutes an attenuating circumstance. Such children may not receive a sentence of death or of life imprisonment. Rather a term of imprisonment of between five and 10 years may be imposed. In less serious cases, the penalty is halved. It is important to note that this age group is virtually never involved in serious crime.

244. The judicial system does not have special jurisdiction over minors. Children found guilty of an offence are brought before the same courts and judges as adults. In terms of prison administration, minors usually live in the

same prison accommodation as adults. They suffer all the more because the high level of promiscuity in prisons exposes them to risk of abuse, particularly sexual abuse. The Bujumbura prison, for example, which was originally designed for 800 persons, now accommodates some 2,400. Young girls live with women, who have their own separate quarters. There is also a women's prison in Ngozi.

245. The judicial system is inadequate: there are around 381 judges and 65 public prosecutors for the entire country. There are only 34 lawyers to defend thousands of persons being held in preventive custody throughout the entire country. There are only three criminal appeal courts. There are 17 country courts catering for the 15 provinces and the Bujumbura municipality. Before the conflict, there used to be a Juvenile Bureau (vice and drugs), but it is no longer functioning.

C. Children in exploitative situations (art. 32 to 36 and 39)

246. Certainly, in times of crisis, the potential for exploitation of children can be overwhelming.

247. The Labour Code makes it illegal to employ children below 18 years of age in night work (art. 119). It also states that children below the age of 16 may not be employed by an undertaking for any activity other than light and healthy work or an apprenticeship and which may not harm the health, normal development or ability of children so employed to pursue their school studies or other instruction. A control mechanism is provided for under article 128, authorizing a work inspector to require a medical examination of any such children or young persons, so as to ensure that the work they perform does not place an undue burden upon them. Ministerial Ordonnance No. 630/1 of 5 January 1981, which regulates child labour, defines the kind of light and healthy work which children may be employed to perform.

248. Burundi law protects children against all forms of economic or industrial exploitation. In rare cases, minors do carry out heavy work before they have reached the age of 16. However, the rural exodus, unemployment, begging and the effects of the crisis can be taken as an inducement to further infringement of the law: the emergency is the justification and impunity is the incentive.

249. Domestic work can be seen as a form of apprenticeship, a traditional duty associated with the age of the child. Such work constitutes exploitation when the child is systematically prevented from going to school. The risk is all the greater for children who have been placed in foster homes, since they are sometimes seen as easy extra labour.

250. Sexual exploitation of children is obviously prohibited. The Criminal Code contains a series of provisions in this regard, grouped under the heading of offences against family order.

251. The Criminal Code specifies penalties for offences committed against the sexual integrity of the child, for exploitation of prostitution and for incitement of children to engage in debauchery. Any offence against public decency, even without the use of violence, but with the use of deception or threats, against a child under 18 years of age is punishable by a term of

imprisonment of between 5 and 15 years (art. 382 of the PC). The penalties are severe, but the crime has to be detected. There are many taboos and many unreported cases of illicit sexual relations and sexual abuse.

252. The penalties for rape of a minor are even higher. Simply by engaging in close genital contact with a minor under 18 years of age is considered violent rape and is punishable as such. A double penalty is imposed for rape of children by persons who are either their legal or de facto guardians (art. 387 of the PC).

253. Burundi law also deals severely with incitement to debauchery and exploitation of the prostitution of minors. The relevant penalty for these offences is 10 years, if the victim is a child aged, or apparently aged, below 21 years (par. 2, of article 372 of the PC).

D. Children from minorities or indigenous groups (art. 30)

254. Unusually for Africa, Burundi's population is characterized by cultural and linguistic homogeneity. Burundi has a single language and a single culture. No children are deprived of the right to a cultural life or to express themselves in their own language.

255. This needs to be qualified, however, with reference to the Batwa people, an ethnic minority (1 per cent of the population) which keeps itself very much to itself and that is little inclined to advance its social status. Moreover, the Batwa are not held in high esteem by Burundi society. For generations, the Batwa (pygmies) have been a marginalized minority group. Respect for the rights of the child in this instance are guaranteed through respect for the rights of minorities. This minority has reacted to social exclusion by producing very closed, tightly-knit communities, dominated by endogamous marriage and often engaged in the process of settlement. A 1993 study of the Batwa in the Mutaho commune (Gitega) showed that 80 per cent of respondents wanted the authorities to provide agricultural land and more effective advice to help them diversify their income-generating activities away from exclusive dependence on pottery and basket making. The Government and some associations are making efforts to encourage school enrolment among Batwa children. Theoretically, these children have the same access to schools as other children in Burundi, although the reality may differ depending on the locality and on local prejudices.